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Nationalism at the Council of Constance

(1414-1418)

A DISSERTATION

Submitted to the Faculty of Sacred Sciences of the Catholic University of America in partial fulfilment of the requirements for the Degree of

DOCTOR OF SACRED THEOLOGY

by the

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PREFACE.

The Sixteenth Ecumenical Council of the Church, that of Constance (1414-1418), largely because it terminated the Great Western Schism, occupies a notable place in the conciliar history of the Church. During the five centuries that have passed since the leading churchmen and princes of Western Europe gathered at the quiet little city on the shores of Lake Constance to take part in this most notable of medieval assemblies, the Council of Constance has remained a subject of absorbing historical interest and spirited theological controversy. Though convoked to deal with questions of an ecclesiastical character, its discussions bore directly on the civil life of all of Europe. Its purpose, though strictly religious, was of such a nature that it touched directly the most significant manifestation of current political development, the increasing trend of nationalism and the growth of highly centralized monarchies. Viewed apart from its essentially ecclesiastical character and composition, it may be regarded as a gathering of the nations of Europe, and in scope not without significant results for international relations.

A study of the available documentary records of the Council of Constance indicates that there are a number of important topics which have not hitherto received due consideration. In its politico-ecclesiastical aspect the Council of Constance has attracted the attention of nearly every modern student of the history of politics. Due importance, however, has not been given to the nationalistic movement in Europe at that period in so far as the

Council itself was brought into contact with that movement and affected by it.[1]

Nationalism and the spirit it represents should be alien to an Ecumenical Council which is an assembly of a Church, Catholic in essence and history, and which though not opposed to national hopes and aspirations, is nevertheless above national lines. At the Council of Constance this spirit of nationalism was not only present, but received concrete expression in its most menacing form in the method of *voting by nations* which was agreed upon and which was without precedent in the history of Church councils. That the Council of Constance should adopt a method of voting so much out of harmony with conciliar tradition, is an evidence not only of the potent nationalism of the time, but of the imminent danger that threatened Church unity and hierarchical independence. That this method of securing a decision in an ecclesiastical synod did not destroy the unity of the Church and that it did not perpetuate and intensify the Great Western Schism was a notable triumph in a Council torn by party spirit and not wholly immune from political intrigue.

Though powerless to prevent the termination of the schism, the influence of nationalism at the Council of Constance was nevertheless sufficiently strong to nullify the effort to secure the adoption of the other proposals, so vital to the interests of religion, which formed part of the program for which the Council was called. The writer is, of course, aware that there remains unpublished a considerable store of manuscript material dealing directly with the Council of Constance which must

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1 In treating of nationalism here, we regard it as denoting "a condition of mind in which loyalty to the ideal or to the fact of one's national state is superior to all other loyalties and of which pride in one's nationality and belief in its intrinsic excellence and in its 'mission' are integral parts." Hayes, C. J. H., *Essays on Nationalism*, p. 6.

await the appearance of the third volume of Finke's *Acta Concilii Constanciensis.* These unpublished manuscripts might tend to modify certain conclusions arrived at from the documents already in print; but the writer is convinced that his main thesis is sufficiently attested by sources already published.

The present study of the Council of Constance is based almost entirely on standard sources such as Mansi, *Sacrorum Conciliorum Nova et Amplissima Collectio,* 47 vols. (of which vols. xxvi-xxviii have been used), Paris Edition, 1901; Van der Hardt, *Magnum et Oecumenicum Constansiense Concilium,* tomi vi, Leipzig, 1700 [2]; Lenfant, *Histoire du Concile de Constance,* 2 vols., Amsterdam (new edition), 1727; Finke, *Forschungen und Quellen zur Geschichte des Konstanzer Konzils,* Münster, 1889, and *Acta Concilii Constanciensis,* 2 vols., Münster, 1896-1923. The joint work of Denifle and Chatelain, *Chartularium Universitatis Parisiensis,* 4 vols., Paris, 1889-1897, has also been used to a considerable extent. Historical works dealing with the Council or with the period of the Council, which have been found especially helpful are Creighton, *History of the Papacy during the Period of the Reformation,* 5 vols., London, 1882-1884; Guizot, *History of Civilization in Europe,* New York, 1896; Leclercq, *Histoire des Conciles,* (the translation of Hefele's *Conciliengeschichte* enlarged by copious additional notes), 9 vols., Paris 1907 ff; Janssen, *History of the German People at the Close of the Middle Ages* (translated by M. A. Mitchell), 16 vols., St. Louis, 1896; Mallot, *Les Papes d'Avignon,* Paris, 1920; Pastor, *History of the Popes from the Close of the Middle Ages,* (translated by F. I. Antrobus and R. F. Kerr) 8 vols., St. Louis, 1896 ff; Rashdall, *The Universities of Europe*

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2 This collection will be cited throughout this work as VDH.

during the Middle Ages, 2 vols., Oxford, 1895; Salembier, *The Great Schism of the West* (translated by M. D.), New York, 1907; Schaff, *John Huss, His Life, Teachings and Death*, New York, 1915, and Wylie, *The Council of Constance to the Death of John Hus*, London, 1900.

Of treatises dealing in part with the political thought of the period, the following may be mentioned: Carlyle, *A History of Medieval Political Theory in the West*, 4 vols., New York and London, 1903-1922; Dunning, *History of Political Thought Ancient and Medieval*, New York, 1902; Emerton, *The "Defensor Pacis" of Marsiglio of Padua*, being number viiii of the *Harvard Theological Studies;* Figgis, *Studies of Political Thought from Gerson to Grotius* (1414-1625), Cambridge, 1907, and *The Theory of the Divine Right of Kings*, Cambridge, 1914; Gierke, *Political Theories of the Middle Age*, (translated by F. W. Maitland), Cambridge, 1907; Laski, *The Problem of Sovereignty*, Yale University Press, 1917; *Authority in the Modern State*, 1919; and *The Foundation of Sovereignty*, New York, 1921; Lavisse, *Political History of Europe* (translated by Chas. Gross), New York, 1891; Littlejohn, *The Political Theory of the Schoolmen and Grotius*, New York, 1895; Poole, *Illustrations of the History of Medieval Thought and Learning*, London, 1920; and Stubbs, *Constitutional History of England*, 3 vols., Oxford, 1891 ff. On the study of Ecumenical Councils from an historico-theological viewpoint, the works of Billot, *De Eccleisa Christi*, Romae, 1903; Bouix, *De Papa; Ubi et de Concilio Oecumenico*, Paris, 1896; Pesch, *Praelectiones Dogmaticae*, Freiburg, 1903; and Palmieri, *De Romano Pontifice*, Prato, 1891, have been used. Other secondary, encyclopedic, and periodical works, which deal with the Council of Constance from a theological, historical, or political viewpoint, and which have proved informative in the present study, are noted in the biographical appendix.

Of these sources the work of Van der Hardt has been by far the most valuable. Encouraged by his generous patron, Rudolph, Duke of Brunswick, this seventeenth century scholar placed the leading European libraries of his day under tribute in collecting all documentary material strictly relevant to the Council of Constance. Van der Hardt's own University, that of Helmstadt, furnished him with many precious documents, as did other libraries of Germany, namely, Berlin, Brunswick, Celle, Erfurt, Leipzig, Nuremberg, Saxony, and Wolfenbüttel. His largest contribution, however, came from the Imperial Library at Vienna, where, in addition to other documents, he found a four volume *Acta* of the Council.[3] Of these four volumes, the first three were written by Nicholas Elstrawe, the secretary of Duke Ernest of Austria, and the latter's representative at the Council; the fourth by John Dorre, the Dean of St. Andrew's at Worms, who was present at the Council.

Van der Hardt was aided also by the good offices of Eberhard Louis, Duke of Würtumberg, at whose instance John Ulric Pregitzer of the Imperial Historical College searched for documentary material, bearing on the Council, in the libraries of Switzerland. At Constance, where the Council was held, as well as in the monasteries at Lindau, Petershausen, Reichenau and Salmansweiler, Pregitzer found much to add to the store of manuscripts which Van der Hardt had collected. On his return journey to Würtemberg he also secured valuable manuscripts at Tübingen and Zweifalten.[4] From Gothenberg in Sweden, Paris, and the Vatican Library, manuscripts also were obtained. A compendium of the *Acta,* written in 1500 by Jerome of Coire, was found at Hagenau.

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3 This manuscript will be abbreviated as Vienna (Caes.) in this work.

4 Pregitzer's *Relation* is reprinted in the *Prolegomena* of Von der Hardt, pp. 8-14.

The Wingfield manuscript which gives a detailed account of the spirited debate between the French and English delegates on the question of voting, the Richard Ullerston manuscript containing a summary of the reform program of the English delegates, and the manuscript of Robert Cotton, were secured from England.

Of the many manuscripts which Van der Hardt collected in his wide search, he was fortunate in securing a number of accounts which were written by eye-witnesses of the Council and the events which occured in Constance during the period that it was in session. Among these were the *Historia Concilii Constantiensis* by Theodore de Vrie, an Augustinian monk of Osnabrück; the *De Vita et Fatis Constantiensibus Johannis Papae XXIII* by Dietrich von Nieheim the secretary of Pope John XXIII; and two accounts which are perhaps the most interesting of all, those of Ulrich von Reichenthal, a Canon of Constance, and Eberhard Dacher who accompanied Rudolph of Saxony to the Council. These two, especially Reichenthal, were tireless in seeking information of the happenings at Constance during the Council and recorded many interesting details of what occurred there. Naturally Van der Hardt found a number of treatises in the works of John Gerson and Cardinal D'Ailly which were written either during the Council or just before it assembled. Worthy of mention also among other works, written before the Council, and which he added to his collection were the *Concilium Pacis* of Henry Langenstein; the *De Ecclesia Emendatione* by Nicholas de Clemanges; and the *De Necessitate Reformationis Ecclesiasticae in Capite et in Membris* by Dietrich von Nieheim.

Van der Hardt was not entirely successful in his quest, for even at the present time not all documents of the Council have been published. It must be remembered that he collected most of his material shortly after the close of the "Thirty Years War," during which much

precious manuscript material was destroyed. On more than one occasion his long search for a manuscript was repaid by the information that it had perished in the flames. At Königsberg, for example, he found that a history of the Council which had been written by John Wallenrod, a Teutonic Knight who was present at the Council, and which he had traced to its right place after much labor, had been destroyed by fire. He also suffered the loss of a number of manuscripts at sea.

With the mass of material at hand it was no simple matter for Van der Hardt to arrange his manuscripts in order. He, himself, foresaw the difficulties which the reader would face and so, in the *Prolegomena* to his first volume (chapter XII), he outlined the general plan which he followed in arranging the work. It was his intention to arrange his material topically and at the same time to follow as much as possible the chronological order. In his actual arrangement, however, there is much confusion; but the chronological account of the Council which occupies the whole of the fourth volume gives sufficient guidance to enable one to find without much trouble the relevant manuscripts.

Shortly after the publication of Van der Hardt's work, the French historian, Jaques Lenfant, wrote the *Histoire du Concile de Constance* in two volumes. He endeavoured to give a complete history of the Council based on the manuscripts which Van der Hardt had published and some others which he himself had found at Paris. In his preface, Lenfant paid a tribute to the work of Van der Hardt and wrote a summary account of his labors in securing manuscripts relating to the Council. Though Lenfant added little to the documentary work of his predecessor, he presented the story of the Council of Constance in a more orderly fashion and furnished moreover a guide to the sources of the earlier writer. Lenfant's wide knowledge of European national history

and his use of such historians as Martène, Durand, and Spondé (the continuator of Baronius), enabled him to give a valuable history of the Council and produce a work that is indispensable to later students.

In 1889 Heinrich Finke of the University of Freiburg im Breisgau, edited a number of new documents in his *Forschungen und Quellen zur Geschichte des Konstanzer Konzils.* This was, moreover, the beginning of a greater work, namely, the *Acta Concilii Constanciensis* of which two volumes have been published up to the present. The first volume which appeared in 1896, dealt with the activities of the three claimants to the Papacy, Gregory XII, Benedict XIII, and John XXIII, and of the Emperor Sigismund and Carlo Malatesta of Rimini, during the few years preceding the convocation of the Council. Some documents dealing with the Synod of Rome (1413) were also published in this volume.

Twenty-seven years later (1923) Doctor Finke edited the second volume of this work. It contained the valuable Diaries of Cardinal Fillastre, one of the leading churchmen of the Council, that of Jacobus Cerretanus, an official of the Papal Court, and of the Arch-deacon of Clermont, William de Turre, and in addition a number of sermons and public addresses which were delivered during the Council. These sermons and the Diary of Cardinal Fillastre reflect clearly the spirit of nationalism which dominated the minds and purposes of the delegates at the Council. The *Avisamente* (the requests for reform) of the French nation and a number of Tracts dealing with the reform as well as several giving an account of the strife between Pope and Council and between the Mendicants and the University of Paris are also published. A third volume of sources which Finke is preparing is eagerly awaited by students of medieval history.

For the sake of giving Latin texts not only *verbatim* but *literatim* the writer has thought best to make no attempt to correct some obvious misspellings, except where correction is needed to make the text clearer.

The writer takes this occasion to acknowledge his indebtedness to the Very Rev. Patrick J. Healy, S. T. D., Professor of Ecclesiastical History at the Catholic University of America, at whose suggestion the present study of the Council of Constance was undertaken and under whose guidance this monograph has been completed. He wishes to express his gratitude also to the Rev. Heinrich Schumacher, S. T. D., the Rev. Peter Guilday, Ph. D., L. L. D. and the late Rev. Charles F. Aiken, S. T. D., whose courses he attended at the Catholic University of America.

CHAPTER I.

POLITICAL BACKGROUND OF THE COUNCIL OF CONSTANCE

Purpose of the Council of Constance

At the Council of Constance every problem that had affected the general political life of Western Europe for a thousand years and every question of importance in the later medieval life of the Church came up for discussion and settlement. This sweeping assertion understates rather than exaggerates a condition which touched every person in western Christendom. The Council itself was called ostensibly to find a way of ending the Great Western Schism which had been a scandal to Christian sentiment and a menace to Church unity for nearly forty years (1378-1414), but the manner in which the settlement of the schism should be effected had a profound interest for every State and individual in Christendom. The unity of the Church was at stake, and on the manner in which this question might be adjusted depended also the solution of many problems not strictly ecclesiastical that had for a long time divided students of political philosophy and had even been the source of much dissension among states.

The Great Schism of the West

The schism which led to the convocation of the Council of Constance resulted from the disputed election

of Urban VI in 1378. The Cardinals who had gathered at Rome in the conclave which followed the death of Gregory XI, were not only forced to contend with hostile factions within the College itself, but in their ears were dinned the clamours of the Roman populace which demanded a Roman or at least an Italian Pope[1]. In an attempt either to effect a compromise among the factions within the College or to placate the crowd that was storming the chamber where the conclave was in session, the Cardinals hit upon the expedient of selecting as Pope, not one of their own number, but the Archbishop of Bari (Bartolomeo Prignano), who took the title of Urban VI. The choice of the conclave at first appeared a happy one, for the new Pope was a churchman of rare qualities. His austere life and long activity at the Papal court seemed to mark him as one well fitted for the peculiarly difficult task which faced him as the successor of Gregory XI, who had brought the Papacy back from the long exile at Avignon. Though possessed of the highest intellectual attainments and distinguished for the austereness and probity of his life, the new Pontiff was singularly lacking in gentleness and tact.[2]

Difficulties with the Cardinals

Urban VI found himself head of a College of Cardinals who were accustomed to the easy life of the Avignon court and whose ideals were far below his own. These Cardinals were loath to submit to the regulations which the Pope wished to impose upon them and resented the harshness of his methods in dealing with them. They soon regretted the impulse that drove them to select Bartolomeo Prignano for the Papacy and were only too eager to seize the first opportunity that presented

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1 Cf. Pastor, L., *History of the Popes from the Close of the Middle Ages*, vol. I, pp. 117-118; Salembier, *The Great Schism of the West*, p. 30.

2 Pastor, *op. cit.*, pp. 121-122, also Mansi, J. D., *Sacrorum Conciliorum Nova et Amplissima Collectio*, vol. XXVI, col. 609-610.

itself to escape from their unenviable position. Their dissatisfaction with Urban was heightened and matters were brought to a crisis when he announced to them that it was his intention to create a number of Italian Cardinals.[3] This measure, if effected, would at once transfer the control of the Sacred College from the French to the Italian side of the Alps, and could be interpreted as a gesture towards the complete withdrawal of the Papacy from the ties that had recently bound it to the French court.

The New Election at Anagni

At any rate this announcement of Urban drove the Cardinals to take a radical step. On the plea that they desired a short respite from the heat of summer, they withdrew in small groups from Rome and later gathered at Anagni[4]. Seizing as a pretext the fact that the election at Rome was held under circumstances which might raise some question as to its validity, they convoked a second conclave at Anagni and, repudiating their previous choice, elected in his stead the warrior churchman[5], Cardinal Robert of Geneva, as Clement VII.

Effects of the Schism

The effect of this action of the Cardinals was far-reaching. Both Urban VI and Clement VII maintained the validity of his election and as a result Western

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3 Pastor, *op. cit.*, pp. 122-125.

4 The purpose of the Cardinals in leaving Rome was more or less an open secret. Writing from Tiberinum on July 27, 1378, Marcellus of Inghen, *nuntius* of the University of Paris, informed the University of the departure of the Cardinals and expressed his fear of a terrible schism. Cf. *Chartularium Universitatis Parisiensis*, edited by H. Denifle and A. Chatelain, vol. III, pp. 553-555.

5 Robert of Geneva had earned an unenviable reputation because of the severity with which he had dealt with the inhabitants of Cesena in 1377 when sent by Gregory XI to put down an uprising against the Papal power in Romagna. Cf. Pastor, *op. cit.*, pp. 103-112; Sismondi, *History of the Italian Republics in the Middle Ages* (edited by W. Boulting), Book iv, p. 329.

Europe witnessed the scandal of a double Papacy.[6] The schism thus begun was continued through successive elections and not only enfeebled the unity of the Church but lessened respect for the Papacy. Since all ecclesiastical jurisdiction and discipline are ultimately dependent upon the Pope, the Western Schism demoralized the Church and led to a laxity of life and conduct among the clergy that imperilled order and morality.

Influence of Politics on the Schism

The schism might have been more easily dealt with were it not for the influence of the politics of the time. In normal circumstances it would have been a problem limited to the ecclesiastical sphere; but, as the schism itself was rooted in another evil, namely, the aggression of secular princes upon ecclesiastical prerogatives, it was impossible to arrive at a settlement without taking into consideration the purposes of the secular princes whose interests were also involved. When it is remembered that the schism followed immediately after the Avignon Exile, the political importance which it assumed can be readily grasped. During that period of seventy years the Papacy lay under the suspicion that it had become amenable to the interest of the French

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[6] There is a striking passage in the *Chronicles of Sir John Froissart*, which gives the impression which the outbreak of the schism made upon the mind of a contemporary. "I know right well that in time to come there will be had much (marvel) of these things, how the Church should fall in such trouble and endure so long, but it was a plague sent from God for the clergy to advise and to consider well their great estate and the superfluity they were in; but many did set little thereby, for they were so blinded with pride that each one thought to be as good as another: wherefore it went evil, and if our faith had not been confirmed in the hands and the grace of the Holy Ghost, who illumined the heart of them who were gone out of the right way and held them firm in unity, else our faith had been greatly deformed; but the great lords of the earth at the beginning did nothing but laugh at the Church, till I chronicled these chronicles in the year of our Lord Jesus Christ MCCCLXXX and X. Much of the common people marvelled how the great lords, as the French king, the king of Almaine, and other kings and princes of Christendom did provide no remedy in that case." (Globe edition) p. 357.

king,[7] while the German empire, which through the greater part of the middle ages had been the acknowledged protector of the Papacy, lost much of its influence in ecclesiastical affairs. During this same period England had entered the long struggle with France known as the Hundred Years War, and felt keenly her rival's growing domination in the affairs of the Church.[8] Both Germany and England rejoiced therefore when the Papal residence was once more transferred to Rome, while on the other hand the French king was unwilling to allow the restoration.[9] These two opposing forces, namely, Germany and England on the one hand and France on the other, were consequently thrown into sharp conflict as a result of the disputed election, since the question arose whether the Papacy should, in the person of Clement VII go once more to Avignon, or whether, in the person of Urban VI, it should remain at Rome.

Alignment of Europe in the Great Schism

When, therefore, the insurgent Cardinals repudiated their choice of the Archbishop of Bari and in his stead selected Robert of Geneva, they were able at once to secure the support of France and the countries allied to

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7 There was not on the part of the Avignon Popes that servility to the French king which has been often attributed to them. But they were an asset to France politically and financially. Cf. Mollat, G., *Les Papes d'Avignon*, pp. 262 ff., and Stubbs, W. M., *Constitutional History of England*, vol. II, pp. 412-413; Dunning, Wm., *Political Theories Ancient and Medieval*, pp. 219-220; Poole, R. L., *Illustrations of the History of Medieval Thought and Learning*, p. 217; Pastor, *op. cit.*, p. 58; Bryce, *Holy Roman Empire*, p. 257.

8 It is to be noted that during this period the Act of *Praemunire* and the *Statute of Provisors* were passed by the English Parliament, while in Germany the nobility rallied to the support of Louis of Bavaria in his struggle with John XXII.

9 Pastor, *op. cit.*, p. 110; Emerton, E., *Humanism and Tyranny*, pp. 13-14. When, in 1374, Gregory XI sought to return to Rome, the Duke of Anjou and others persuaded him to remain. Mollat, *op. cit.*, pp. 224 ff.

the French policy.[10] Hence Scotland, the Spanish kingdoms, Flanders and Naples gave their support to Clement VII. On the other hand, the support given to Clement VII had the effect also of bringing Urban VI to the forefront as the champion of the nations which sought to check the growing influence of France. The appeal, therefore, of the Emperor Charles IV to the princes of Europe to oppose the pretensions of Clement VII and bring to a halt the dominance of France sounded the keynote of the contest.[11] England, Poland, Hungary, Portugal, the Scandinavian countries, Italy and the Empire at once followed the lead of the Emperor and sided with the claims of Urban VI. In effect, therefore, it may be said that the countries of Europe, in supporting the claims of either of the rivals to the Papacy, had at stake also the principle of either accepting or rejecting French dominance in the political and ecclesiastical affairs of Europe. Practically speaking, France then became the pivotal focus of the schism and the princes of Western Europe followed the Roman or the Avignon succession of Popes in accordance with their opposition to, or acceptance of, the French policy. The dependence of both rivals for the Papacy upon these alliances made it impossible to settle the schism on a purely ecclesiastical basis, since such support by the nations raised the dif-

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10 Pastor calls attention to the fact that Charles V of France had actually urged the Cardinals at Anagni to take the step which they did. *Op. cit.*, p. 127. When they first assembled at Anagni the Cardinals sent a legate, Nicholas de S. Saturnino, to the University of Paris to explain their position. Cf. *Chartularium Universitatis Parisiensis*, vol. III, pp. 553. After the election of Robert of Geneva, they sent the Cardinal of Poitiers to France, Brabant, Hinault, and Flanders to gain prestige for their claims. He failed, however, to reach Flanders. Cf. *Chronicles of Sir John Froissart*, pp. 218 ff. On November 21, 1378, Urban VI wrote to the University to explain his position, but the bearer of the message was captured by the followers of Robert of Geneva and the letter, quite mutilated, did not reach the University until three years later. *Chartularium*, vol. III, pp. 552, 559-560. Cf. also Mansi, *op. cit.*, vol. XXVI, coll. 614-615.

11 Lodge, R., *The Close of the Middle Ages*, p. 186; Pastor, *op. cit.*, p. 135.

ficulty of securing their adherence to the principle by which or the person through whom unity would be attained.

Necessity of a General Council

Thus the question of settling the schism became associated with the political aspirations of the countries of Western Europe and a condition was established which made it imperative that the nations of Europe, as a protective measure for their own interests, should have an opportunity of voicing their sentiments regarding the claims of the rival Popes. The relationship of Church and State, moreover, had now become so interwoven that the problems raised by the one could be solved only by meeting the problems specifically raised by the other. The obvious solution, then, of this difficulty, as well as the necessity of giving to the nations the opportunity of voicing their desires, suggested the assembling of a General Council in which the leading churchman of each nation would be present. Though not the usual method of settling difficulties within the Church, a General Council seemed to offer the only practicable solution because of the difficulties in which the Papacy itself was involved when the schism commenced. We have already noted that the exile of the Papacy at Avignon had caused many to look with suspicion upon the support accorded to Clement VII by the French king at the beginning of the schism. Furthermore, the fact that Clement VII had now taken up his residence on the banks of the Rhone also had a deterrent effect on the international status of the Papacy itself. In this situation the Papacy could be viewed in the light of an institution which might be made subject to the interests of one or other of the nations. It was therefore not surprising that an attempt should be made to place above that institution a power, representative of all the nations, which might render the Papacy impotent to act in

a manner hostile to the interests of any nation. It was then but natural, that in this crisis the mind of Western Christendom should turn to the traditional way of settling politico-ecclesiastical disputes, since this method, the General Council, would likewise afford representation to all nations.

Current Political Theories and the Schism

A further danger to the peaceable solution of the schism, and a positive menace to the autonomy and constitution of the Church, arose from the condition in which a purely ecclesiastical problem had become identified with the political life of Europe. This danger to the constitution of the Church was all the more significant because of a marked change that had taken place in regard to the attitude of the State in relation to the Church. Western Europe was outgrowing feudalism and the political situation had passed beyond the stage of manoeuvres to definite theories of politics. In contrast to the medieval theory of their mutual relations, by which the State recognized the independence of the Church in all ecclesiastical matters,[12] civil aggression on ecclesias-

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12 This policy was acknowledged though not established by Constantine's *Edict of Toleration*. During the first half of the millenium which followed the promulgation of this edict, an adjustment of this relation was essayed. In the East it had little effect as the almost unbroken opposition of the Byzantine emperors to a separate status for the Church resulted eventually in the system of Caesaro-Papism which was incorporated in the Legal Code of Justinian. In the West the opposition of the Popes and the bishops, especially Ambrose of Milan, resulted in a different policy which was finally formulated and expounded by Pope Gelasius II. But when the Roman Empire was succeeded by the Empire of the West or, speaking from the standpoint of political theory, by feudalism, the most striking characteristic of the new regime was the increase in the number of rulers and potentates with whom the Church had to carry on its relations. Consequently, during the five or six hundred years preceding the Council of Constance the question of the relation of Church and State in the West involved not merely an empire but a multiplicity of small states. One result of this was that the Church itself became feudalized and dependent, not on the generosity of the faithful, but on the possession of great estates. The change therefore which Europe witnessed in its political life during the fourteenth century effected a marked change in the attitude of the State toward the Church.

tical prerogatives had now become not only the settled policy of states and statesmen, but had produced a formidable literature antithetical to the traditional idea of a Christian civilization.[13] This literature had advanced in no uncertain manner a solution of the old question of the relations of Church and State by allocating to the former a subordinate and dependent position.

Theories of Popular Sovereignty

Notable in this literature were the *Defensor Pacis* of Marsiglio of Padua and the *Dialogus* of William of Ockham, both of which had appeared a little over fifty years before the outbreak of the schism. Both Marsiglio and Ockham had joined the little group of dissatisfied *Fraticelli* which was supporting Louis of Bavaria in his struggle against Pope John XXII.[14] As this sympathy of Marsiglio and Ockham was founded more upon hostility to the Pope than on affection for the German emperor,[15] it is not surprising that their writings were designed more to attack the Papal power than actually to theorize on the matter of sovereignty. With this end in view, these two pamphleteers minutely examined the theories of polity as advanced by classical and medieval writers, notably Aristotle, St. Augustine and St. Thomas Aquinas,[16] and sought to show that as the final authority

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13 Cf. Gierke, Otto, *Political Theories of the Middle Age* (translated by F. W. Maitland), pp. 5, 51; Dunning, *op. cit.*, pp. 224 ff; Poole, *op. cit.*, 225 ff; Bluntschli, J. K., *The Theory of the State*, pp. 136-137; Stubbs, *op. cit.*, vol. II, p. 111; *Idem, Select Charters and other Illustrations of Early English History*, pp. 426-427.

14 Cf. Creighton, M., *History of the Papacy during the Period of the Reformation*, vol. I, pp. 34-35, 39. Littlejohn, J. M., *The Political Theory of the Schoolmen and Grotius*, p. 229.

15 Dunning, *op. cit.*, p. 239; Poole, *op. cit.*, pp. 231-232.

16 Dunning, *op. cit.*, p. 238 ff. Cf. Murphy, E. F., *St. Thomas' Political Doctrine and Democracy*, pp. 40 ff; Littlejohn, *op. cit.*, pp. 117-119. cf. *Summa Contra Gentiles*, III, 76, q. 3; *De Regimine Principum*, I, c. 12, of St. Thomas Aquinas. See also "The Sources of Medieval Political Theory and its Connection with Medieval Politics," by A. J. Carlyle in the *American Historical Review*, vol. xix (1913), pp. 1 ff; Gettell, R. G., *History of Political Thought*, pp. 120-124.

in the State is the voice of the people, so the final authority in the Church should be the General Council, which as sketched by them, afforded representation to all the people of Christendom.[17] Though it may truly be said that the doctrine of popular sovereignty had not hitherto received such an impetus from the standpoint of political theory as it received from Marsiglio and Ockham; it must be conceded also that more revolutionary doctrines as affecting the constitution and autonomy of the Church had not hitherto been advanced.[18] Practically speaking, these two writers sought to turn Church sovereignty from what might be termed a monarchical form of government to that of a parliamentary form, and, particularly in the case of Marsiglio, endeavoured to reduce the Church to the condition of a department of State.[19]

Application of These Theories to the Church

During the Fourteenth Century it was, of course, impossible to apply these theories of popular sovereignty since, as a matter of fact, the states of Europe were being consolidated into national monarchies which not only checked the realization of these theories, but expressed a concept of state sovereignty that was little more than a backward cast to the omnipotent absolutism of the

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17 Gierke, *op. cit.*, pp. 46-47; Poole, *op. cit.*, pp. 233-235, 244. Cf. especially Emerton, E., *The Defensor Pacis of Marsiglio of Padua*, p. 26, in *Harvard Theological Studies* number viii.

18 Marsiglio concluded that the full powers intrusted by God to the community of the faithful—which of course included the laity—were to be exercised by a General Assembly or, as applied to the Church, the General Council. The delegates to the Council, whether they were clerical or lay, were to act in virtue of the authority derived from the community which they represented, not through any essential power of their own. Emerton, *op. cit.*, pp. 55-59. For the effect of the writings of Marsiglio and Ockham in the later Conciliar movement, cf. "Marsiglio and Ockham" by J. Sullivan in the *American Historical Review*, vol. II, pp. 599-609, and "Konrad von Gelnhausen und die Quellen der Konziliaren Theorie" by Wenck in *Historische Zeitschrift*, vol. LXXVI, pp. 1-60.

19 The theory of Marsiglio advocated the plan of making all ecclesiastical offices state offices and Church property state property. Cf. Emerton, *op. cit.*, pp. 40-43; Gierke, *op. cit.*, pp. 94-95.

ancient classical state.[20] Throughout this period there may be noted a crystallization of European polity into centralized states in which the royal power was not only gathering to itself all prerogatives of civil sovereignty,[21] but in a measure was usurping ecclesiastical rights as well. In the face of this growing absolutism in the state there was no opportunity of giving practical expression to the purely political phase of the Fourteenth Century theories of popular sovereignty. On the other hand, the theories which suggested popular sovereignty in the Church were seized upon by some as a possible solution

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20 The advance made by medieval theologians in the theory of popular sovereignty was counteracted by a powerful movement tending toward the acknowledgment of a conception of state sovereignty patterned on the ancient Roman state. In a striking paragraph Harold Laski describes these contrary movements. "The medieval state, it was seen, must be explained; and variants upon the teleology of Aristotle were the weapons most apt to the purpose. The individual may be an end in himself—for the Christian notion of personal salvation has a significance no student of the history of democracy may forget—but the state also exists for its own separate purpose. Even with the competing purpose of the Church in view, men like John of Paris and Gerson can argue that the purpose of the state is not less nobly moral; while Marsiglio charged it with the care of the good life in a way which seemed to render needless all ecclesiastical function. But if the state has purpose it must have rights wherewith to guard it; and those rights pass easily into a notion of supremacy." *Foundations of Sovereignty*, pp. 11-12. "If," says Gierke, . . . we survey the Political Doctrine of the Middle Age, we see within the medieval husk an 'antique-modern' kernel. Always waxing, it draws away all the vital nutriment from the shell, and in the end that shell is broken." *Op. cit.*, p. 4.

21 Cf. Maine, H. S., *Ancient Law*, p. 77; Bluntschli, *op. cit.*, pp. 391-392; Poole, *op, cit.*, p. 226; also Janssen, *History of the German People at the Close of the Middle Ages*, vol. II, iv, pp. 163-165, 219-221, for the effect which the legal schools had on this movement. Stubbs has declared that "the weapons which are used by the politicians of the sixteenth and seventeenth centuries are taken, with little attempt at improvement or adaptation from the armory of the fourteenth. The intervening age has rather conserved than multiplied or extended their functions." *Constitutional History of England*, vol. III, pp. 2-3. Figgis sees in the political activity of the century the formation of the theory of the divine right of rulers. Cf. *Theory of the Divine Right of Kings*, pp. 44-45. He also suggests (p. 51) that this theory was accepted as a counter-claim to Papal supremacy. A more recent writer sees in it, however, an attempt to justify the absolute sovereignty of hereditary monarchs. Cf. Holcombe, A. W., *The Foundations of the Modern Commonwealth*, p. 97.

of the difficulties created by the schism,[22] even though their acceptance meant a profound change in the constitution of the Church. One result of the consideration of these various theories was that it led to a careful and minute analysis of the question of Church sovereignty, through which the theorists advanced into every possible field of conjecture, setting forth a range of hypotheses which included practically every scheme that has been since conceived for an adjustment of the constitution of the Church.[23]

Practical Appeal of These Theories During the Schism

The problem of Church sovereignty which presented itself in the time of the schism was practical rather than theoretical. Since the two rivals for the tiara refused to surrender, it was obvious that no settlement could be made so long as either could find supporters of his claims. The inflexible attitude of Urban VI on the one hand and of Clement VII on the other raised the question whether it was not possible to find a court of appeal which in some fashion would make the litigants subject to a universal Church. A ready means of solution was offered by the system of Parliaments and parliamentary representation with which the Fourteenth Century was ex-

22 Figgis, J. N., *Political Studies from Gerson to Grotius*, pp. 50-58.

23 "When the Schism came, and the difficulty presented itself of deciding which out of the two or three claimants was the true Pope, people began in despair to look for a tribunal which should be the standing committee of the Church. Various policies were suggested, and an immense literature survives of the proposals put forward for the healing of the Schism and for the future government of the Church. The necessity for some scheme that should put an end to the Schism, prevent its recurrence and reform the Church was generally admitted, but the precise means of securing these remedies was what baffled so many minds. There was no lack of plans, indeed there were too many plans, and each promoter held to his own." Jarret, Bede, *Social Theories of the Middle Ages*, p. 228. "More and more distinctly, says Gierke, men were conceiving the Church as a 'Polity,' and it was natural therefore that in the construction of this Polity they should employ the scheme of categories which in the first instance had been applied to the temporal state." *Op cit.*, p. 49. Cf. also Figgis, "Respublica Christiana" in *Transactions of the Royal Historical Society*, vol. XIX, pp. 63-68; and Salembier, *op. cit.*, p. 109.

perimenting, and the view daily gaining wider acceptance, in theory if not in practice, that sovereignty rested in the people, suggested the hypothesis that authority in the Church was vested in the body of the faithful. This ready solution reduced the situation to a dilemma either of acknowledging the supreme power of two claimants whose demands were mutually exclusive, or of abandoning the divinely constituted sovereignty of Saint Peter to popular control. It is significant of the time that the latter alternative, contrary as it was to the traditional view of the constitution of the Church, radical and revolutionary as it was in principle, should have received serious consideration from so many men eminent in the Church. The only reason that can explain such adherence to a doctrine so revolutionary is to be found in the fact that on the one hand it seemed to offer a means of solving the problem of the schism, and on the other that it was thoroughly in harmony with current political thought.

Heretical Movements

The problem of adjusting the affairs of the Papacy was further complicated by difficulties of a doctrinal character which had already divided the Church into factions in England and Bohemia. It is worth noting that the heresies of Wycliffe and Hus, in addition to many others, turned on the constitution of the Church.[24] Wycliffe, in addition to his errors concerning the sacraments, predestination, and the tenure of property by those in mortal sin, advanced theories that, if accepted, would sweep aside the entire hierarchical system in the Church.[25] It is significant too, that at the outbreak of the schism he first attacked the two claimants for the Papacy and

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[24] *Dunning, op. cit.*, pp. 260 ff. Poole, *op. cit.*, pp. 254-260; Figgis, *Political Studies from Gerson to Grotius*, p. 29, says this theory of Wycliffe is more Erastian than that of Erastus.

[25] Poole, *op. cit.*, p. 265.

later turned his assault on the Papacy itself.[26] Though condemned in 1411 by the Council of London and by the University of Prague, the doctrines of Wycliffe found a warm defender in John Hus,[27] through whose preaching they became the source of much dissension among ecclesiastics in Bohemia.[28] Moreover, wandering bands, notably the Flagellants, Waldensians, and Beghards, heedless of the voice of the Church,[29] caused much disorder by their practices in France, Italy, Spain, and Germany. To deal adequately with these questions required a power far mightier than an enfeebled Papacy could muster. This growth of heresy served more and more to bring home the conviction that the methods followed in earlier times, namely, the General Council as a medium for eradicating heresy and clarifying doctrinal matters, must once more be utilized. It is not surprising, therefore, that the demand for such a gathering grew stronger day by day.

The Need of Reform

Great as was the necessity of dealing effectively with dissensions, heresies, and abuses, there was an equally imperative demand that vigorous steps be taken to arrest the growing decay in ecclesiastical fervour. It is only necessary to read the acts of the Provincial Councils of this period to be convinced of the urgent need which existed for a thorough reformation in the lives of the clergy and the monks. Simony, incontinence, disregard of monastic vows and rules came in for constant

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26 Poole notices that the writings of Wycliffe from the outbreak of the Western Schism assume a more bitter tone in regard to the Papacy. Cf. *Wycliffe and Movements for Reform*, pp. 101-103.

27 Lützow, F. H., *Bohemia; An Historical Sketch*, p. 92; Schaff, D. S., *John Huss, His Life, Teachings and Death*, pp. 46 ff.

28 *Ibid.*, pp. 85-106.

29 Pastor, *op. cit.*, pp. 157-159.

reprobation in the decrees of the Councils,[30] and while there were many saints and earnest reformers striving devotedly to bring about the necessary changes, the conviction grew that the entire support of the Church should be cast on the side of reform. This conviction was an added reason for calling a General Council as it was realized that an assembly thoroughly representative of Western Christendom would act as a powerful stimulus toward the consummation of this long desired reform. The prestige of such an assembly could give, moreover, a moral sanction to the decrees or resolutions which it might promulgate, and thereby assure their universal acceptance.

The General Council as a Forlorn Hope

In normal circumstances, or under such Pontiffs as Innocent III or Innocent IV, no one would have thought it necessary to convoke a General Council to deal with such matters as the heresies of Wycliffe or the Flagellants; but, with two Popes claiming authority and neither sure of the allegiance of those who followed him, no other means seemed effective to remedy the existing evils. The demand for unity was imperative not only in the interest of Church discipline, but also for public morality and the general life of the people. No other of the many schemes which had been proposed seemed to offer substantial hope and consequently the desire for a General Council increased daily. Insistent, however, as was this appeal, it did not command general support. Conrad Gelnhausen published from the University of Paris in

30 Cf. Reformatory decrees of the Provincial Councils of Prague, 1381, in Mansi, *op. cit.*, XXVI, coll. 689-694; of London, 1382, *ibid.*, coll. 695-712; of Salzburg, 1386, *ibid.*, coll. 725-734; of Palencia, 1388, *ibid.*, col. 735; the Synod of London, 1399, coll. 919-936; and the Council of Rheims, 1408, *ibid.*, coll. 1069-1078.

1380 his *Epistola Concordiae* [31] and a year later the great German theologian, Henry Von Langenstein, also of the University of Paris, issued the *Concilium Pacis*.[32] Both works advocated a General Council as a remedy for the schism and a cure for the demoralized state of the Church. The University itself, however, which was becoming a leading factor in the settlement of the schism, did not for a long time definitely commit itself to their principles. It was, in fact, only after other expedients had been proposed and found wanting that the University made a formal demand for a General Council.

The University and the Schism

From the beginning of the schism the University of Paris held a place in the minds of the faithful which justified it, to some extent, in assuming the role of arbiter; but its professed neutrality [33] was hampered by the position which France itself had taken in supporting the claims of Clement VII, himself a Frenchman. In 1394 on the death of Clement, however, a Spaniard, Peter de Luna, succeeded him. This choice caused a perceptible change in the French attitude toward the Avignon line of claimants and brought to the University the sympathy of its own nation in its policy of neutrality. In view then of its great influence in Western Europe and its position of neutrality, the University felt justified in inviting its members to submit written opinions as to the best means

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31 Cf. "Konrad von Gelnhausen und die Quellen der Konziliaren Theorie," in *Historische Zeitschrift*, LXXVII, pp. 1-60; *Chartularium Univ. Parisienis*, vol. III, p. 581; Gierke, *op. cit.*, note 232.

32 See Helmstadt MS. in VDH., *op cit.*, II, 11, 1-59.

33 It should be noted, however, that at the actual outbreak of the schism the University went on record as accepting the claims of Clement VII. The three faculties of the University and the "nations" of Normandy and France adhered to Clement, but those of England and Picardy continued in opposition to him. Cf. *Chartularium*, vol. III, pp. 562, 565 572, 586. In 1378 the University of Heidelberg refused to accept the new *Licentiati* of Paris as teachers, because they secured their degree under the authority of Clement. *Ibid.*, p. 593.

of ending the schism. Incredible as it may seem, ten thousand documents were received in reply, and still more incredible, out of this mass of treatises, only three feasible plans could be drawn. These plans are referred to as: the *via cessionis,* which meant the voluntary withdrawal of both claimants from the field; the *via compromissionis*, which provided that the two rivals should submit their claims before an impartial tribunal and abide by the result and; the *via synodi,* which was merely an appeal to the arbitrament of the General Council.[34]

The University of Paris and the Via Synodi

But with both rivals for the Papacy mutually defiant and each sincere in his claims, the hope of inducing either claimant to abandon his professed rights became futile. Nor did any better success attend the attempt that was made in 1398 by the Emperor Wenzel and Charles VI of France, to refuse recognition to either claimant. Indeed these two princes, the former a drunkard and the latter subject to periods of insanity, could not command enough influences to induce their own followers to assume a neutral position. Further the attempt to induce the two claimants to effect some sort of compromise that would restore unity to the Church likewise failed, for each, distrustful of his rival, refused to surrender any of his disputed rights. When, therefore it became evident that mutual distrust on the part of the two claimants made either the *via cessionis* or the *via compromissionis* impossible, the University com-

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34 Cf. *Chartularium,* vol. III, pp. 604-616. In a communication from the University, July 17, 1394, Benedict XIII was informed that one of the replies received contained the astounding declaration that *it mattered little how many Popes there were; that each country might have its own!* *Ibid.,* pp. 631-633.

mitted itself exclusively to the third proposition namely, the *via synodi*.[35]

The University and the Conciliar Movement

Once committed to this line of action as the only possible solvent for the difficulties within the Church, the University of Paris, through its representatives, assumed the leadership in the party that throughout the crisis promoted the Conciliar movement. Peter D'Ailly, Bishop of Cambrai and former Rector of the University, John Gerson, a former pupil of D'Ailly and at this time Chancellor of Paris, Andreas Randulf and Dietrich von Nieheim,[36] all members of the University, became the leaders of the party and the foremost advocates of a General Council as the court of last appeal. Associated with them in leadership was the great canonist of the University of Padua and future Cardinal, Francis Zabarella.[37]

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35 Though the University had held a Council in 1381 it was not until the Council of Paris in 1406 that a definite advance toward the realization of the *via synodi* was made. This Council, incidentally, furnished an opportunity for the national spirit of France to assert itself. Simon Cramaud, Patriarch of Alexandria, spoke on behalf of the University of Paris and, though he protested that he wished to say nothing against the liberties and immunities of the Holy Roman Church, he insisted nevertheless that the prelates of France were capable of judging all appeals in their last resort; that the final court of appeal should be the Primate of France. Salembier, *op. cit.*, p. 210. Prior to the schism, no doubt, the Patriarch would have been well satisfied to have the court at Avignon judge the appellate cases of the Christian world.

36 Gierke, *op. cit.*, p. 52 ff. Dietrich von Nieheim is the author of the celebrated tract, *De Modis Uniendi et Reformandi Ecclesiam in Concilio Universali*, which Van Der Hardt has attributed to John Gerson, cf. Helmstadt MSS. VDH., I, v. coll. 68-143. Pastor, *op. cit.*, vol. I, p. 193, declares that Lenz in his *Drei Tractate aus dem Schriftencyclus des Konstanzer Concils*, has established the authorship of Dietrich von Nieheim. It is in this tract that the striking apostrophe is addressed to John XXIII in which he is urged to resign his claims to the Papacy. "Do not say: I have a right to the Papacy. Do not, under the appearance of justice, corrupt the whole body of the Church. A good man verily brings good things from his treasure. If, then, you are good, as another Christ, you should offer yourself in the garden to the Jews, saying: Whom seek ye? Do you seek me Jesus of Nazareth, the Pope, that I should resign? Behold here I am, if you seek me, be converted and come." *l. c.*, col. 112.

37 Cf. *Vita Francisci Zabarellae Cardinalis Florentini*, presented at the Council of Constance by Poggio in VDH., I, ix, 537-546.

Theories of the Conciliar Party

These scholars made a study of the theories, ecclesiastical and political, which had been advanced during the Fourteenth Century, and sought to formulate a plan for a General Council which would give to it a legal standing and render it not only independent of the Pope, but the final court of appeal.[38] In this plan they did not question the primacy of the Pope nor did they impugn the monarchical authority in the Church. But they qualified these concessions by insisting that the General Council had power to regulate, correct, and if need be, to overrule the Papal power.[39] As far as can be judged, the Conciliar party, at this period, had not formulated any definite theory of ecclesiastical sovereignty, but in the several Aristotelian forms to which they gave earnest consideration, it is clear that they were not reluctant to consider suggestions which, if accepted, would imply a radical change in the constitution of the Church. Of these theories two were given serious consideration: one which might be called an aristocratic form of government in which the Cardinals were set up as a sort of intermediary power between the Pope and Council,[40] the other, rather democratic in character, which satisfied the views of the more radical element in the party, would make the Council itself supreme.[41]

Dangers in a General Council Shown at Pisa

But the convocation of a General Council on the basis of the theories advanced by the Conciliar party was

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38 Gierke, *op. cit.*, p. 52.

39 *Ibid.* pp. 52-53; cf. Bouix, *De Papa, ubi et de Concilio Oecumenico*, p. 456.

40 Gierke, *op. cit.*, pp. 53-54.

41 *Ibid.*, cf. note 199. The climax of these theories may be said to have been reached when Theodore de Vrie in his *Historia Concilii Constantiensis*, declared, though in figurative language, that there was no need of a Pope at all as the body of the faithful is self-sufficient. Cf. *Prosa Libri Secundi*, distinctio, iii, in VDH., I, i, coll. 31-34.

not without a considerable element of danger, as was amply demonstrated by the attempt of the Cardinals of the two contending Popes to hold a Council at Pisa in 1409.[42] The reluctance of some to hold a General Council was indeed justified by the results which attended this effort. In accord with the principles of the Conciliar party it was assumed that a General Council representing the Universal Church is the court of highest appeal and has the right to compel the Pope to submit to its judgment.[43] Relying further on such assumption of authority, this Council also established a dangerous precedent when it decreed that another Council should be held after three years.[44] As Emerton [45] remarks, this action is significant, since it is the first time in conciliar history that a Council had adjourned to a definite future date. It marks, we may say, the beginning of an attempt to make the General Council, held periodically, the supreme governing power in the Church.

Results of the Council of Pisa

One may well ask, regarding the Council of Pisa, did it accomplish anything? It was the first practical attempt to put the theories of the supremacy of a General Council into practice, but it only succeeded in making the schism more confusing by adding a third claimant to the Papacy. It not only elected a third Pope, but the choice was unhappy. The man chosen was Peter Phil-

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42 To offset this attempt of the rebellious Cardinals, each of the rival Popes likewise convoked a Council. Gregory XII convoked a Council which was to meet at Aquileia (cf. Mansi, *op. cit.*, XXVI, coll. 1085-1096) and Benedict XIII summoned one to meet at Perpignan (*ibid.*, coll. 1103-1123). Both of these Councils were held almost simultaneously with the Council of Pisa; but neither is worthy of more than a passing notice.

43 Cf. Letter of the Cardinals to the Duke of Brunswick, Celle MS. in VDH, II, ii 62-68.

44 Wolfenbüttel MS. in VDH., II, ii, 154-159.

45 "The First European Congress" in the *Harvard Theological Quarterly*, vol. xii, p. 279.

argo, the aged Cardinal of Milan (Alexander V),[46] who was but a puppet in the hands of the capable but unscrupulous Baldassare Cossa, the Cardinal Legate of Bologna. After a pontificate of little more than ten months, Alexander died at Bologna and Baldassare Cossa himself was elected in his stead. The new claimant took the title of John XXIII. One evil and one good effect may be said to have resulted from the attempt to hold a Council at Pisa. In the first place it brought about the election of a third Pope, an evil which was magnified by the fact that Baldassare Cossa was later able to secure the tiara for himself. On the other hand it demonstrated what was to be expected if the principles of the Conciliar party were put into practice. But the warning went unheeded.

Dangers in a General Council Now Seen

The Council of Pisa had, however, centered attention on the difficulties with which a General Council must deal. It could now be foreseen that the very evils, which the proposed Council was expected to correct, would manifest themselves in unmistakable fashion in the Council itself. In the first place the factionalism, which had sustained the schism and which was responsible for the three rivals for the Papacy, would undoubtedly manifest itself with equal force in the Council. The very elements which nourished the schism outside would become more dangerous when united in assembly, and nationalism,

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46 On October 12, 1409, Alexander V, himself a Franciscan, issued the Bull *Regnans in excelsis*, by which the mendicants were permitted to hear confessions and preach in every part of Christendom regardless of the will of the local ordinaries. To say the least, this move on the part of the Pisan Pope was not good policy, for it raised considerable rancour throughout Europe, especially in the University of Paris whose support he could not very well dispense with. Gerson denounced this action of Alexander as fomenting strife and division. As the acceptance of the Council of Pisa by Christian Europe depended to a large extent on the popularity of the Pope it had chosen, the Bull of Alexander did much to discredit that Council. Cf. *Forschungen und Quellen*, etc., pp. 243-247.

which supported the rivals in the schism, was likely also to be a dominant factor therein. Further, in the question of reform, no steps could be taken which demanded a surrender of the rights claimed by either the spiritual or temporal rulers. It was one thing to clamor loudly for reformation; it was another to take steps by which the reformers themselves would be reformed. It was also evident that if the Council were to undertake the work of reformation thoroughly, then the question of the relations of Church and State would no doubt present itself in a phase which would at once go to the heart of the problem of reform, but would at the same time, arouse the bitterest controversies in the Council. One phase of the question was the matter of Papal revenues. This problem had assumed at this time a more controversial aspect between the temporal and spiritual rulers than at any other period in the long history of ecclesiastical tithes. The reason for this is clear. The Popes during the exile at Avignon were deprived of much of their patrimonial revenues from Italy. To make up for this loss, some of the Popes, notably John XXII, had evolved a system of taxation, and applied it to all of Western Europe. One phase of this taxation, the *annates,* or the revenues of the first year from ecclesiastical benefices which were sent to the curia, occasioned much complaint from ecclesiastics and princes throughout Europe since both were deeply affected by it.[47] The

[47] At the Council of Constance the complaint was made by Cardinal D'Ailly that the Popes of Avignon, especially John XXII and Clement VI, had made reservations of benefices which before their time had not been heard of. Cf. *Monita de Necessitate Reformationis Ecclesiae in Capite et in Membris,* Vienna (Caes) MS. in VDH. I, vii, 288. Cf. Lenfant, *Histoire du Concile de Constance,* vol. II, v, pp. 137-138. In his chapter "La fiscalité pontificale," Mollat maintains that although John XXII has been considered as "l'inventeur, l'auteur et le père des annates," it was in reality Clement V "qui, les reclama en Angleterre au profit du trésor apostolique." *Les Papes d'Avignon,* p. 367. On the death of Clement V in 1314, his successor, John XXII, found the Papal treasury depleted. To relieve this condition he made use of the imposts on Christendom that had been in vogue during the reigns of his predecessors. *Ibid.,* pp. 378-379.

schism had made this taxation even more onerous since each of the rivals for the Papacy was forced to increase the taxes on the territory that gave him allegiance in order to be compensated for the losses occasioned by the following of his rivals.[48]

The Question of Church Sovereignty

The most serious problem, however, which the Church was to face in the Council, was the acknowledgment of the supremacy of a General Council. Since this acknowledgment was practically the equivalent of a denial of Papal sovereignty, it involved a radical change in the constitution of the Church. The manner in which the Council of Pisa had been conducted had already presaged a change in ecclesiastical polity from what in political terms might be called a monarchical to a parliamentary form of government. Nor was the danger altogether limited to a possibility of change merely in the form of Church sovereignty. Such a substitution involved a still more radical threat inasmuch as it coincided with a claim already well established in theory that people had the right to be represented in sovereign assemblies. Such a right, if acted on, would imply that a General Council would represent not the soul of the Church, but the body of the faithful in the person of the delegates chosen for that purpose. Emerton[49] has aptly summarized this situation. Writing of the Conciliar movement he notes: "The whole movement was gathering force, not from above or from the centre, but from below and from the circumference. The members of the efficient Council of the future were not to be *summoned;* they were to be *sent.* They were to be, not selected officials of a highly organized hierarchy, but *representa-*

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48 *Vide* memorial of the "nations" at the Council of Constance. Cf. Lenfant, *l. c.*

49 *Humanism and Tyranny,* pp. 15-16.

tives of districts and classes, of states and cities and learned bodies, coming together *as of right.* Their deliberations were to be under the guaranty of secular powers, and their decisions needed no sanction from any other element in the Church. The sequel was to show that these nominally religious assemblies were to be the most emphatic expression of European nationalism as yet attempted." It can be readily seen that such a conception was sure to foster among the delegates a sentiment that was not only repugnant to the traditional attitude of delegates to a General Council, but was also at variance with the fundamental purpose of their presence at the Council, namely, that of witnesses to tradition.[50]

The Spirit of Nationalism

How great a menace to the interests of Church unity was this new attitude of the delegates, may be appreciated from the fact that during the Fourteenth Century Western Europe had advanced with giant strides toward the formation of national states. This movement had served to bring about a feeling of emulation among the peoples of Europe which might have the effect of convincing the delegates that, even though their fundamental purpose in being present at a General Council was that of being witnesses of tradition, they were also representatives of their nation. Hence it would be their duty at the General Council to advance the interests of their nation and to repel any suggestion of limiting national rights. But such an unecclesiastical spirit, so out of harmony with conciliar tradition, served, if anything, to intensify the growing demand for such an assembly where these sentiments would find expression.

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50 Cf. Billot, *De Ecclesia Christi,* I, q. xvi, 2-3; Pesch, *Praelectiones Dogmaticae,* I, ii, 4, I; Bouix, *op. cit.,* pp. 527-528; Forget, in *Dictionnaire Apologétique de la Foi Catholique,* article "Conciles," col. 614 ff; *Idem,* in *Dictionnaire de Théologie Catholique,* article "Conciles," vol. iii, col. 643 ff; Van Hove, in the *Catholic Encyclopedia,* article "Hierarchy," vol. vii, col. 322 ff.

An Intolerable Situation, However, Demanded a Council

In spite of the fact that the Council of Pisa had revealed rather than diminished the dangers and difficulties to be faced in a Council at this period, it did not by any means lessen the conviction that in the last analysis the General Council was the only available plan that held the possibility of remedying a condition which had become intolerable. If anything, this assembly served to accentuate the demand. Though the schism had lasted so long, neither the Church nor the people of Europe could adjust themselves to it. Not only had it become a threat to Church solidarity and Christian unity, but a menace to the peace of Europe. This situation alone can account for the seemingly incredible fact that following the fiasco at Pisa the demand for a General Council grew more insistent.

The Empire in Schism

It is significant that at this time similar problems troubled that other great medieval institution, the Empire. Worth noting, too, is the fact that these troubles were caused by the factionalism of the followers of the rival Popes. Fearful that the Emperor Wenzel might abandon the allegiance which his father, Charles IV, had pledged to the Roman line of Popes, the electors of Treves, Mayence, Cologne, and the Palatinate of the Rhine met at Lahnstein in 1400 and having deposed Wenzel from the leadership of the Empire, elected one of their number, the Count Palatine, Rupert III, in his stead. Wenzel, however, refused to abdicate his claim to the imperial title, and, as the other three electors remained loyal to him, there were now two claimants for the headship of the Empire.[51] By a strange coincidence

51 Lodge, R., *Close of the Middle Ages*, pp. 195, 201-203; Lenfant, *op. cit.*, I, i, 4-5.

this schism eventually involved three claimants also. On the death of Rupert in 1410, the four insurgent electors could not unite upon a successor. Sigismund of Luxemburg and Jobst of Moravia, each secured two of the votes, while Wenzel retained his former support.[52] This condition, fortunately, was of short duration. Jobst of Moravia died in 1411 and Wenzel thereupon agreed to abdicate his claims. Except for the Archbishops of Mayence and Cologne, the imperial electors were ready to accept Sigismund. Strange to say, these two churchmen, who had repudiated Wenzel because of their fear that he might abandon his support of the Roman line, now objected to Sigismund on the ground that he still upheld the cause of the Roman Pope, then Gregory XII. This change of mind, of course, had followed the Council of Pisa. In these circumstances the ambitious Luxemburg prince did not hesitate to cast aside his allegiance to the Roman Pope and thus secure the unanimous vote of the electors. Without further dissent Sigismund was chosen. The newly elected Head of the Empire now became an important factor in the settlement of the schism.[53]

The Assurance of a Council

It may be, perhaps, that the adjustment of the difficulties in the Empire gave new hope for a similar settlement in the Church through the medium of a General Council. Certainly the futility of seeking any method, other than the General Council, to affect the unity of the Church and of solving the other difficulties for which the schism was indirectly responsible, had been demonstrated beyond doubt.[54] As has already been pointed out, the Church in normal circumstances need not have invoked the aid of such a measure; but, as we have seen,

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52 Lodge, *op. cit.*, pp. 203-204; Lenfant, *l. c.*

53 Lodge, *l. c.*

54 Pastor, *op. cit.*, p. 192.

Western Christendom was not compelled to meet normal conditions. The situation that must be met was one which, as it affected the traditional sovereign power of the Church, was subversive of unity and which, if not remedied, would perpetuate abuses fatal to the interests of the Church and religion. Day by day the demand for a General Council grew and when once more the Empire was under one Head, additional force was given to the plea, since the newly elected King of the Romans had pledged himself to the furtherance of such a plan.

Position of the Three Claimants

The prospects of holding a General Council, which were made immeasurably better by the election to the Empire of Sigismund, directed attention to the position and claims of the three rivals. As we have already seen, John XXIII had succeeded Alexander V in what might be termed the Pisan line, while the Spaniard, Peter de Luna, had, in 1394, succeeded to the line of Avignon following Clement VII. In the Roman line, Urban VI had been followed in turn by Boniface IX (1389-1404), Innocent VII (1404-1406), and Gregory XII (1406-1415). Of the three claimants to the Papacy, John XXIII held the most strategic position and the most powerful following. His two rivals had been compelled to leave their respective capitals. Benedict XIII had been forced to flee, across the Gulf of Lyons, from Avignon to Spain where he retired to his old home at Peniscola, while Gregory XII was at Gaeta under the uncertain protection of Ladislas of Naples, then the most powerful prince in the Italian Peninsula. Rome itself was in possession of Ladislas, but John XXIII, anxious to hold that city and thus secure the added prestige which the traditional capital of Christendom would afford to his claims, did not hesitate to measure strength with him. At the battle of Rocca Secca in 1411 the Pisan Pope won a decisive

victory over the Neapolitan prince and compelled him to abandon Rome. In the peace which was effected between them, Ladislas also agreed to abandon Gregory XII, who thereupon fled to the surer protection of Carlo Malatesta at Rimini.[55]

The Council at Rome 1413

John XXIII now entered Rome in triumph, and making a pretence at following the decrees of the Council of Pisa, which had provided that a Council should be held three years after its adjournment, convoked a Council to meet in Rome during the following year. Owing to the wars in Italy and the long delay of the delegates in arriving, the Council was not opened until 1413. The Council was poorly attended and, as far as the major questions of Christendom were concerned, nothing was accomplished beyond the condemnation of the writings of Wycliffe.[56] The need for a General Council was in no way satisfied by this small gathering at Rome, but little encouragement for a more general assembly was to be received from the Pisan Pope. John had little desire to see a representative Council convoked and if such a Council were to be held at all it was to his interest to have it held in Italian territory. He had good reason to fear the issue of a Council that might be held in the territory over which he had neither the mastery nor a dominating influence. But, the choice was not to be left to him, for he was soon to discover that the treaty made after the battle of Rocca Secca was really effective only until

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55 *Fillastres Gesta Concilii Constanciensis,* in Finke, *Acta Concilii Constanciensis,* II, pp. 12-13. This is the title given to this document in the volume of Doctor Finke. In this work, however, it will be cited as Fillastre, *Gesta Concilii Constansiensis.* Cf. Milman, H. H., *History of Latin Christianity,* vol. VII, book XIII, pp. 326-338.

56 Cf. Finke, *op. cit.,* I, p. 131 ff. The bull of Alexander V, *Regnans in excelsis,* was somewhat modified, on the special request of the University of Paris, by John XXIII. cf. *Chartularium,* vol. iv, pp. 204 ff, and Finke, *Forschungen und Quellen,* etc., pp. 243-247.

Ladislas could recover. Smarting under his defeat that prince again took the field against John XXIII.

Sigismund in Italy

Following the adjournment of the Council of Rome, Ladislas came northward and entered Rome with a powerful army and John was compelled to flee in haste to Florence. Even there, however, the Pisan Pope was not secure, for the triumphant Ladislas continued his advance and city after city fell before him. John was finally driven to seek refuge in his former stronghold at Bologna where if necessary he could make a final stand.[57] In the meantime Sigismund, the newly elected King of the Romans, had come into Italy and was then at Lodi.

The Purposes of Sigismund

The ostensible purpose of Sigismund in visiting Italy at this time was to treat with the Venetians, who were causing him some annoyance in Dalmatia; but he desired also to watch the movements of Ladislas.[58] The unexpected plight of John, however, turned his thoughts to a more ambitious design. In the person of Sigismund, the Empire was again advancing to the forefront of European political life. Owing to the war with England and the rivalries between the Armagnacs and the Burgundians at home, France was receding from its leading position in Western Europe. Could Sigismund bring about a restoration of unity in the Church and institute a reform, as he had promised to do when elected, he would become the dominating figure in Christendom.[59] But

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57 Lenfant, *op. cit.*, I, i, 5-6; Fillastre, *Geśta Concilii Constansiensis, op. cit.*, II, p. 14.

58 Lenfant, *op. cit.*, I, i, 6.

59 "His interest in the council," says David S. Schaff, "was due less to a high religious purpose to bring about reforms in the Church than to an ambition to play a leading part in his generation. He had some taste for books and spoke several languages, but was frivolous, unreliable, and sensual." *John Huss*, p. 163.

Sigismund realized that such undertakings could be accomplished only through a General Council greater in prestige and representation than that of Pisa. His immediate object, therefore, was to bring about the convocation of such a Council, a matter which might be effected by uniting forces with the much harassed John, who, despite his troubles with Ladislas, was recognized as Pope by the greater part of Christendom.[60] Could Sigismund effect this he would lift the Empire to a position of supreme influence in European politics. There was also a further incentive in convoking the Council, since the delegates might be induced to confirm the decrees of the Council of Pisa, which among other things had excommunicated Ladislas.[61] This last possibility appealed not only to Sigismund, since it would cripple the prestige of a rival in the Peninsula, but also to John XXIII, because of his present embarrassment and his hatred of Ladislas. The Emperor had also another motive, that of uniting the princes of Christendom for a crusade against the Turks who were ravaging his possessions in Hungary. But he realized that such a proposition postulated a united Christendom.

Dilemma of John

For his own part, the Pisan Pope, in his difficult plight could look to none but Sigismund for help. John knew, however, that the King of the Romans would aid him only on condition that he would agree to the convocation of a General Council. The Pisan Pope had, of course, no desire to risk his claims to the Papacy before the judgment of a Council;[62] but now Ladislas was moving toward Bologna. While John was in this desperate quandary, Sigismund despatched an ambassador to treat

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60 Fillastre, *Gesta Concilii Constansiensis*, in Finke, *op. cit.*, II, p. 14.
61 Lenfant, *op. cit.*, I, i, 6.
62 Fillastre, *Gesta Concilii Constansiensis*, in Finke, *op. cit.*, II, pp. 14-15.

with him on the matter of holding a conference in regard to the convocation of the Council.[63] For a time John hesitated, but finally sent Cardinals Zabarella and Challant, and the Greek soldier-scholar, Manuel Chrysoloras, to make final arrangements for the Council.[64]

Meeting at Como

John's representatives met Sigismund at Como, October 13, 1413. Apparently, the delegates had been made plenipotentiaries, but it appears that John wanted them to insist that the Council be held at either Nice or Genoa. But for some unaccountable reason, he left them free to accept any city and, much to his chagrin, they agreed that the Council should be held in the imperial city of Constance in Switzerland, in the latter part of the following year.[65] In a desperate attempt to change the place, John went personally to visit Sigismund at Lodi, but the Emperor turned a deaf ear to his plea.[66] John was now irrevocably committed to the Council on Sigismund's terms. On December 11, the Pisan Pope issued the Bull of convocation and an imperial edict from Sigismund bade all who were concerned to come to Constance.[67] Following these negotiations John withdraw to Mantua where he remained until the following spring.

Significance of the Site Selected for the Council

The joint convocation of the Council as well as the selection of an imperial city as a site was a distinct

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63 *Ibid.*, pp. 8, 14-15; Finke, *Forschungen und Quellen*, pp. 243-247.

64 Manuel Chrysoloras also attended the Council of Constance during which he died, April 15, 1415. He was one of the leading Humanists of his day. Cf. Lenfant, *op. cit.*, I, ii, 176.

65 *Ibid.*, I, i, 8; Fillastre, *Gesta Concilii Constansiensis*, II, pp. 14-15.

66 *Ibid.*, cf. Schaff, *op. cit.*, p. 164.

67 The Bull of John XXIII, *Ad pacem*, may be found in Van Der Hardt, VI, i, 9-10. Sigismund's edict, as well as his letters to King Charles of France and Gregory XII in which he invited them to the Council, are in the same volume, VI, i, 5-9. Cf. Mansi, *op. cit.*, XXVII, coll. 537-538.

triumph for Sigismund. By this manoeuvre he had successfully ousted the French from their position as the leaders of the reform movement.[68] Already the University of Paris had appealed to John XXIII to have a General Council held on French soil,[69] so in securing his own choice of locality, the King of the Romans made a further triumph, and stood ready to challenge, if he wished, the Council of Pisa, which had been held under French auspices.

Advantages of the Site

But the advantages of the city of Constance as a site outweighed other considerations. First of all, it was an imperial city and a place calculated to disarm the fears of the contending Popes who dared not trust their person in the territories favorable to either of their rivals. The city of Constance was moreover rather easy of access from Germany, France, and the countries to the north. Then, too, it was selected by Sigismund himself in opposition to the Papal claimant who was jointly convoking the Council with him. There was also a further advantage in that the spot was one which would give hope and confidence to the Christian world, a point which was emphasized in the edict of Sigismund as well as in the Bull of John XXIII.[70] A Council held in Italy would have meant simply an assembly of the followers of the

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68 "Although to Sigismund, more than to John, the Council was due, yet to the opinion of the scholarly guild of Europe it was due more than to both of these dignitaries. Pressed by the Hussite disputes in Bohemia, the king saw in the Council a feasible way for settling them, but also a means of displaying his own authority at the expense of his elder brother Wenzel both as a champion of orthdoxy and the protector of the rights of Bohemia. His initiative in seeking the appointment of the council, united with his imperial claims, called forth repeatedly from John XXIII the address 'Advocate and Defender of the Church,' a title Sigismund did not shrink from using himself." Schaff, *op. cit.*, p. 164.

69 *Chartularium*, vol. IV, pp. 204-206; Hefele-Leclercq, *Histoire des Conciles*, vol. VII, p. 445 footnote.

70 *L. c.*

Pisan Pope; were it held in Spain, it would have been looked upon as an endeavor to solidify the claims of Benedict XIII; factions in Germany made the choice of that country impossible, while the memory of Avignon still clung too closely to France; England was too remote and by reason of its quarrel with France a Council held there would hardly have appealed to the whole of Western Christendom. On the other hand, situated on the northwestern shore of the beautiful Lake Constance, at the outflow of the Rhine into the Untersee, and nestling at the foot of the Alps, the city of Constance was in many respects an ideal spot for what, in point of varied representation, was to be the scene of one of Europe's greatest assemblies.

Forecast of the Council

For the moment the imperial city of Constance was to become the political Capital of Christendom. With few exceptions the temporal princes of Christian Europe were expected themselves at the Council or were to send representatives. It was reasonably hoped that such a representative Council would be able to effect the union of the Church, destroy the new-born heresies, and institute a far-reaching reform. It was thought also that the Council of Constance might afford an opportunity of reconciling the Western and Eastern Churches. Sigismund had been for some time in communication with the Emperor Manuel of Constantinople and overtures of peace had already been made.[71] The Pope, whose authority went back to the recent Council of Pisa, was to preside, and though Gregory XII still remained under the protection of his one true friend, Carlo Malatesta of Rimini, and the obstinate Benedict XIII was entrenched in the bleak fastness of Peniscola, there was a strong

71 Cf. Finke, *Acta Concilii Constanciensis*, vol. I, pp. 391 ff. for correspondence between Sigismund and Manuel.

hope that even these two would yield finally to the appeal of the Christian world and make their appearance at Constance.

A Congress of Nations

Because of the circumstances of the age, the Council of Constance, though intended to be a General Council of the Church, could not fail to become a forum for the discussion of every variety of European interest.[72] It was to be the "First European Congress" [73] and in it every throb of activity in political life during the preceding century was to vibrate, and every misfortune which the Church had suffered since the beginning of the Avignon Exile was to have its effect. With Western Christendom split into three divisions by reason of the schism and the air filled with the now thoroughly popularized theory that a General Council must afford representation to every locality, it is small wonder that the Council of Constance occupies a place in many respects unique among the Councils of the Church. There European politics were to be exhibited for the first time on a large scale and the theories of popular and local autonomy that had hardly passed the state of speculation were to be put in practical application.[74] But this application unfortunately was to take place only in relation to the Church.

Attitude of the Delegates

In accord with certain theories which were advanced during the preceding century, many of the delegates to the Council of Constance, were actuated, not entirely by the fact that they were the divinely appointed guardians

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72 Cf. Figgis, "Politics at the Council of Constance" in *Transactions of the Royal Historical Society,* vol. xiii (new series), pp. 103-115.

73 "The First European Congress" by Ephraim Emerton in the *Harvard Theological Quarterly,* vol. xii, pp. 275 ff. Wylie calls it a "Reichstag of Christendom." *The Council of Constance to the Death of John Hus,* p. 49.

74 Figgis, *op. cit.,* p. 103 ff.

of the deposit of faith and witnesses of tradition, but also by the consciousness that in a measure they represented the interests of their respective countries. This attitude, it might well be feared, would have its effect on the question that was sure to come up for settlement in one form or another, namely, the relation of the individual to the Church, the question as to what extent the Church might claim the loyalty of the individual as against certain demands of the national state.

Prospects of the Council

Probably no General Council of the Church had hitherto gathered with better prospects of accomplishing its purposes than did the Council of Constance. Its convocation was an answer to several generations of pleaders and, in the latter years, to almost the united voice of the Christian world. As the delegates to the Council entered the quiet medieval city in the late autumn of 1414, they carried with them the hopes of a distracted Europe and a sorely tried Church. They stood at the parting of the ways of medieval and modern life and were to decide whether Europe would continue the measured advance toward popular sovereignty which had been brought forward during the middle ages, but which needed a longer period of medieval life to make it operative; or whether abandoning the slow and sure advance, they would be tempted by the sophistries of political thought as advanced during the preceding century and plunge blindly into a revolutionary movement rather than be satisfied with the slower steps of orderly progress. They were also to render judgment on the question that had been discussed for a millenium, namely, the relations of Church and State. In answering this question they were to decide whether the Church had any claims to

sovereignty in the national states.[75] The Council in fine was to be the last great gesture of medieval life. To paraphrase what Bryce has said of the Holy Roman Empire; into it all the life of the medieval world was gathered; out of it all the life of the modern world arose.[76]

Situation in Europe

As the time for the Council approached, Europe was practically in a state of war. Hungary was a prey to the invasion of the Turks, while Bohemia was torn with religious strife. Though the Poles had severely defeated the Teutonic Knights at Tannenburg in 1410, the Knights were not thereby prevented from continuing their incursions into Polish and Lithuanian territory. Germany

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75 In his chapter on *Personality of Associations*, Professor Harold J. Laski writes in part: "Everywhere we find groups within the state which challenge its supremacy. They are, it may be, in relations with the state a part of it; but one with it they are not. They refuse the reduction to unity.....Men belong to it; but they also belong to other groups and a competition for allegiance is continually possible. Here, as a matter of history we find the root of Mr. Gladstone's attack on the Vatican decrees of 1870. An allegiance that is unreduced to unity appeared to him without meaning. Yet it is obvious that every great crisis must show its essential plurality. Whether we will or not we are boundless hyphens. When the centers of linkage conflict a choice must be made." *Foundations of Sovereignty*, pp. 169-170. Naturally this conclusion of Professor Laski flows from his assumption that "sovereignty means no more than the ability to secure consent; and that there is no sanction for law other than the consent of the human mind." Cf. *Studies in the Problem of Sovereignty*, p. 14. This is, of course, a theory which, as Doctor John A. Ryan has pointed out, carries the opposition to state omnipotence to a point that cannot be conceded, failing as it does to recognize that the state has a true moral authority; and that within certain limits, this authority is rationally and morally independent of the assent of the citizens. "We do not accept that moral anarchism (adds Dr. Ryan) which would permit any social group at any time to withhold its allegiance and fix the limits of sovereignty. Our contention is simply that the sovereignty and authority of the state are not absolute, but are limited and defined by the proper end of the state and its methods of operation, and we insist that the sphere of the Church is not only distinct from that of the State, but higher in dignity and importance." Ryan-Millar, *The State and the Church*, p. 43. In substance, the delegates at the Council of Constance were to decide whether or not the Church could maintain these claims in the face of the growing omnicompetence of the national state.

76 *The Holy Roman Empire*, p. 446.

was in the midst of a struggle between prelates and princes, for nowhere, perhaps, did the schism more seriously disturb political and ecclesiastical life than in the Empire. The strife of a century continued in Italy and the vexed question of the succession of the two Sicilies kept the Italian Peninsula a battleground. Spain was making preparations for the long struggle that at the end of the century would liberate the Iberian peninsula from the Moors, while France was in the throes of a civil war through the disputes between the Burgundian and Orleanist factions. England, still affected by the Lollards, was on the verge of a renewal of hostilities with France.[77] In the midst of all these turbulent conditions the hopes of Europe for peace and union centered in Constance where the great Council was about to assemble.

The Journey of John XXIII to Constance

In the spring of 1414, John XXIII returned from Mantua to Bologna and while there was relieved of all immediate trouble by the sudden death of Ladislas of Naples.[78] But John was already irrevocably committed to the holding of the Council and it seemed ironical that when there was no longer any excuse for him to withdraw from his agreement with Sigismund, without a patent display of bad faith, the one cause that had driven him to agree to the Council was removed. Before starting for the scene of the Council he secured from Sigismund and the citizens of Constance a guarantee that he would be received there with the honor due his station, that his jurisdiction should be recognized, and that he would be allowed freedom to withdraw at any time.[79] Sigis-

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77 Lenfant, *op. cit.*, I, i, 3.

78 *Ibid.*, I, i, 10; Cf. *De Vita ac Fatis Constantiensibus Johannis XXIII* of Dietrich von Nieheim, Liber. I, chap. XXXIX, in VDH, II, xv, 387-388.

79 Cf. Bzovius in VDH., V, i, coll. 5 ff.

mund, it seems, would promise anything for his own ends; but in relation to the Council of Constance, he was in this as in other cases, none too ready to fulfill his pledged word. In early October, all arrangements for the journey had been completed and the Pisan Pope set out for Constance. He paused at Meran to consult with Frederick of Austria, whose territories nearly surrounded Constance. At this meeting he made Frederick *Gonfaloniere,* or Captain-General of the Papal forces and assured himself of the protection of a powerful ally against any untoward event at Constance.[80] John XXIII finally arrived at Constance, October 28, where he was received with all due pomp and reverence.[81] He came in honor, but was to flee in disgrace. Anticipating that he was to preside at a Council which he hoped would ratify the choice made of his predecessor at Pisa, he was shortly to discover that he was a prisoner who must prove his innocence.

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[80] Cf. VDH., II, ix, 145 ff (second pagination); Lenfant, *op. cit.,* I, I, p. 18.

[81] *Ibid.,* I, i, 20.

CHAPTER II.

RECOGNITION OF NATIONALISM IN VOTING

The Assembling of the Council

The date set for the opening of the Council was the Feast of All Saints (1414), but at that date not all of the delegates and others interested in the Council had arrived at Constance. Early in June, the Bishop of Augsburg and the Count of Nellenburg arrived within the walls of the imperial city to arrange accommodations for the Emperor. Two months later, Cardinal Jean de Brogny of Ostia, as the representative of John XXIII, came to Constance in order to have all in readiness for the Pisan Pope and his Cardinals when they arrived in the fall. As summer verged into autumn, and the date set for the opening of the Council drew near, churchmen and princes with their retinues crowded the roads which lead to Constance.[1] On October 28th, John XXIII arrived in Constance and was received with every mark of respect and loyalty.[2] Quarters had been assigned to him at the Episcopal Palace, where, as was to be expected he displayed the Papal arms over the gate.[3] On the Feast of All

1 Lenfant, *Histoire du Concile de Constance*, vol. I, book i, p. 17. Milman *History of Latin Christianity*, vol. VII, book xiii, pp. 427 ff. gives a vivid picture of the scenes at Constance during the few months immediately preceding the opening of the Council.

2 Lenfant, *op. cit.*, I, i, p. 20.

3 *Ibid.*

Saints he celebrated Solemn Mass in the Cathedral and Cardinal Zabarella read the Bull convoking the Council.[4]

Who Convoked the Council?

According to the Bull of convocation, the Council of Constance was called by the authority of John XXIII, and this despite the fact that the theories of the Conciliar party denied him that right. But, as we shall see, this concession to the Papal power was made for practical reasons. Later, when it became necessary to do so, the Conciliar party, true to its principles, insisted that the Council was not convoked by the Pisan Pope alone; but by Sigismund as well, and that the convocation of the Pope might be disregarded without embarrassment to the Council.[5]

John Hus of Bohemia

On November 3 the city of Constance was stirred by the news of the arrival of John Hus of Bohemia, Rector of the University of Prague.[6] He had been the leader in the national movement in Bohemia [7] which had culminated in the withdrawal of all German from the University of Prague in 1409,[8] and through his preaching, in

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4 Cf. Brunswick, Leipzig and Gothenberg MSS. VDII, IV, i, 10; Mansi, J. D., *Sacrorum Conciliorum Nova et Amplissima Collectio,* tome XXVII, col. 542.

5 This will be seen in the attitude which the delegates took after their first embarrassment following the flight of John XXIII from Constance.

6 VDH., I, i, 11.

7 Schaff, D. S., *John Huss,* pp. 58-84.

8 The University of Prague had been founded by the Emperor Charles IV and Pope Clement VI in 1348. There, as at other medieval universities, the administration was cared for by the groups of "nations," and faculties. From the beginning there had been a keen rivalry among the four "nations" which had a vote, namely, Bohemia (Czechs, Hungarians and Moravians), Bavaria (Austrians, Swabians, Franconians and dwellers on the Rhine), Poland (including Poles, Lithuanians and Russians), and Saxony (including Saxons, Swedes, and Danes). After 1400, following the establishment of the University of Cracow, the Polish group withdrew from Prague and as a result the rivalry narrowed down to the students

which he advanced the false doctrines of Wycliffe in regard to the Eucharistic Presence and predestination, he had caused much civil strife in Bohemia.[9] Already condemned by the Archbishop of Prague for his teachings, and having appealed to a General Council, he had been summoned to Constance to answer charges of heresy.[10] He had good reason to fear that his life might be in danger, both on the journey and while at Constance, so he had asked and obtained from Sigismund a "Safe Conduct," which pledged his security until his return to Bohemian soil.[11] Hus, it would appear, had some misgivings either as to the potency of the imperial safeguard or to the trustworthiness of Sigismund. Before leaving his own country, according to Lenfant, he left with a priest a letter which was not to be opened except in the event of his death. The letter contained his confession and will.[12]

Arrival of Hus at Constance

On his arrival at Constance, Hus was favorably received by John XXIII,[13] but the influence of his countrymen Stephen Palecz and Michael de Causis (Michael von

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who spoke German and those who spoke Czech. The Germans now had three votes and the Czechs one. Hus was the leader in the movement which induced King Wenzel of Bohemia to issue a document in 1409 which gave three votes to the Bohemian nation and one to the foreign nations in group. The Germans at once left the University, many of them going to Leipzig and built up the University in that city. Cf. Schaff, *op. cit.*, pp. 78-82, and Rashdall, H., *The Universities of Europe during the Middle Ages*, vol. ii, pp. 217-225.

9 Schaff, *op, cit.*, pp. 69 ff., pp. 89 ff.

10 *Ibid.*, pp. 92, 165 ff.

11 Bzovius, quoted by VDH., IV, i, 12. Van der Hardt also gives the *Salvus Conductus* (Safe Conduct) in the Vienna (Dorre) MS., IV, viii, 522. There is an English translation in Schaff, *op. cit.*, pp. 285-286.

12 *Op. cit.*, I, i, 39. The priest, Martin of Prague, was a former pupil of Hus. Schaff, *op. cit.*, p. 168.

13 Schaff remarks that John XXIII was a better friend to Hus than was Sigismund. He at least took care that Hus was provided with decent food and humane guards. *Op. cit.*, p. 290.

Deutschbrod) of Prague changed matters.[14] Though excommunicated, Hus did not hesitate to celebrate Mass and to preach after his arrival at Constance. This action gave his opponents the opportunity of urging the necessity of an immediate preliminary trial, and this effected, they insisted that he be guarded more closely. Despite the "Safe Conduct" that had been given him by Sigismund, Hus was now imprisoned to await a formal trial.[15] When Sigismund heard of the violation of the imperial guarantee, he at once addressed a vigorous protest to the Council, but failed to liberate Hus.[16]

Formal Opening of the Council

On November 5, although Sigismund had not arrived at Constance, the Council was formally opened.[17] In fact, many of the delegates who had been expected had not as yet arrived. Although through the summer and early autumn a large number of distinguished prelates and princes had arrived at Constance, it was necessary to adjourn the Council to November 16,[18] in the hope that more delegates might be present by that time. But the delegates were in no haste to come to Constance and the Council was actually in session for more than three months before all the expected prelates arrived.[19]

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14 *Ibid.*, pp. 174-175.

15 Cerretanus in VDH., IV, i, 22; Schaff, *op. cit.*, pp. 175 ff; *Der Liber Gestorum des Cerretanus* in Finke, *op. cit.*, II, p. 189. This document will hereafter to be cited as Cerretanus, *Liber Gestorum Concilii Constansiensis.*

16 VDH., IV, i, 26. Cf. also apology of John XXVIII for his own flight, Vienna (Caes.) MS. *ibid.*, II, x, 255 (paged incorrectly as 155).

17 Leipzig and Gothenberg MSS., VDH., IV, i, 12. The delay of Sigismund in arriving at the Council was caused by his tarrying at Aachen, where in accordance with tradition he was crowned German Emperor by the Archbishop of Cologne. Cf. Cerretanus in VDH., IV, i, 22-23 and Finke, II, 189; cf. Wylie, *The Council of Constance*, pp. 22-28.

18 First General Session, Vienna MS. VDH., IV, i, 15.

19 From the official opening of the Council November 5, 1414, to the final session on April 22, 1418, in all there were present; twenty-nine Cardinals, thirty-six Patriarchs and Archbishops, one hundred and fifty bishops, over one hundred Abbots, three hundred doctors of theology, and of canon law. Added to these were representatives of the universities, the electors

Method of Procedure

During the early days of the Council, questions of procedure occupied the minds of those present, to the exclusion of other matters. Before the first General Session of the Council was convened, a meeting of the Doctors of Theology was held to discuss the order and methods of procedure to be followed. To some it seemed feasible to suggest that all who were present should accept the decision of the Council of Pisa and unite on John XXIII, and that the Council should be called on to repudiate the other two rivals for the Papacy. Mere repudiation, however, of Gregory XII and Benedict XIII would not remove them as claimants for the Papal throne, as the failure of Pisa reminded the delegates, so a suggestion was also made that they withdraw voluntarily, and in case of their refusal to do so the Council would be asked to determine which of the three it would accept.[20]

The Purpose of the Council Is Reviewed

At the first General Session on November 16, a résumé of the purposes of the Council was read. The Council of Constance, it was stated, was called in accordance with the decree of the Council of Pisa which

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of the empire, and nobles and knights from all Christendom. Dacher, *Historia Magnatum in Constantiensi Concilio,* Vienna MS. VDH., V, ii, coll. 10 ff.

On February 19, 1418, George, Archbishop of Kiev in White Russia, appeared at Constance accompanied by nineteen bishops of the Greek Church. According to Dacher and Reichenthal, they were empowered to treat with the Western Church in the matter of union, provided that the Council were able to effect the reform that was demanded. In the retinue of the Archbishop were a number of Turkish and Tartar princes. VDH., IV, xii, 1513-1514. We may form an estimate of the multitude that had gathered in the city of Constance, from the fact that on the occasion of the "Peace Procession" from Constance across the Rhine to Peterhausen (April 26, 1415), it required one hour for all in the procession to pass over the bridge that spanned the river. Dacher and Reichenthal quoted in VDH., IV, iii, 145-156 (paged incorrectly as 135-136).

20 Vienna (Caes) MS. VDH., II, viii, coll. 189 ff.

had made provision that another Council should be held within three years. The efforts of Sigismund in assembling the present Council received recognition, and the objects of the Council, namely, the restoration of unity to the Church, the reformation of the Church *in capite et in membris,* and the examination of the heresies that were then prevalent, were reviewed. No suggestion at this time was offered as to the means of restoring unity.[21]

The Arrival of Cardinal D'Ailly

On the day following the opening session, Cardinal D'Ailly arrived at Constance [22] and with his coming the preliminary activities of the Council took more definite shape. For the moment, however, the Council was forced to take action in another matter which threatened to divide it at once into definite partisan lines.

The Delegates of Gregory XII

Though both Gregory XII and Benedict XIII had refused to come in person to the Council, the legates of the former, led by the Patriarch of Constantinople (John Contarini)and Cardinal John Dominici, arrived at Constance on November 19.[23] But their coming, instead of making for peace, was the occasion for the first outburst of feeling in the rival camps. The legates of Gregory had been assigned quarters at the Monastery of the Augustinians, and following the example of John XXIII, they, as representatives of Gregory, also displayed the Papal arms. Regarding such action as an open affront to their champion, the followers of the Pisan Pope tore

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21 Vienna MS., VDH., IV, i, coll. 15 ff.

22 *Ibid.*, IV, i, 20.

23 *Ibid.*, A few delegates of Benedict XIII arrived on January 8, 1415. Cerretanus, in VDH., IV, i, 35.

down the insignia of Gregory during the night.[24] This action precipitated a violent controversy when the Council met on the following day, for the delegates of Gregory stoutly maintained that the Roman Pope had at least an equal right to display the Papal arms. On this question the Council began its policy of temporizing and took under consideration the right of Gregory's representatives to display the Papal arms and permitted John to do so because he was personally present at Constance.[25]

Democracy at Constance

With this controversy amicably adjusted, the delegates again settled down to the problem of deciding on the matter of procedure and of organizing the Council for the business in hand. Owing to the unusual situation which had made the calling of an Ecumenical Synod so imperative, the Council was organized for legislative action more with a view to meeting existing conditions than to observe the traditions of the Church. Due to the fact that current theories of representative government in the Church had found wide acceptance among Churchmen, many, if not most, of the delegates at Constance considered themselves as present in a national more than an ecclesiastical capacity. The Council of Pisa had substituted the College of Cardinals for the Pope as the ruling power of the Council, thus speaking in political terms, setting up an aristocracy in place of a monarchy. An even more radical change was made at Constance, however, for this "aristocracy" was not recognized and what might be called a representative system was set up in its stead. Because of this innovation, the Council of Constance has appeared to a number of

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24 Elstrawe MS. in VDH., IV, i. 20; Mansi, *op. cit.*, XXVII, coll. 340-341.

25 Elstrawe MS. in VDH., IV, i; 20-21.

notable scholars, as Figgis,[26] Emerton,[27] and Dunning,[28] to mention but a few, as the realization of medieval theories of popular sovereignty and a decisive triumph for the principles of democracy. Even a slight analysis, however, will show that such was not the case. The Council of Constance was representative in conception, but not as medieval writers had planned. For, at Constance, the delegates who were taking to themselves such powers, were the representatives, not of the people, but of royalty. Many of those who were present owed their position to royal appointment. Instead, then, of fulfilling the dream of the medieval writers who had theorized in regard to popular sovereignty, these delegates went rather in the opposite direction, giving as they did, more power to a class that had already commenced to destroy popular liberty.

Preliminary Discussions

Though nothing was accomplished during the first month of the Council, time was not altogether wasted.

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26 "Politics at the Council of Constance," *l. c.*, p. 103; *Studies in Political Thought from Gerson to Grotius,* pp. 37-39, 54 ff.

27 "First European Congress," *l. c.*, p. 278-280.

28 *Political Theories Ancient and Medieval,* p. 270. Dunning quotes with approval the passage cited from Figgis, "Politics at the Council of Constance." The question at point was whether the Church in its organization and in the exercise of its sovereignty should follow the trend of the times and yield to the demand for local representation. Would its supreme power, in fine, be ascribed to a federation of its various localities or to the majority of them? Should such be the case, then its very essence as a sovereign power would resolve itself into atoms of localities. Bear in mind always that *per accidens* there will ever be popular and local representation in the Councils of the Church, for by its very Catholicity the Church must have representatives from its many localities. Still this is only *per accidens,* for the Church, as the guardian of the deposit of faith must place all things secondary to its acknowledged primal mission. The hierarchy then must be, not merely delegates representing the mind of their respective localities, but must be, if we may use the expression, representatives of themselves in virtue of the pastoral office which they hold. We arrive, it is true, at our ideal in civil sovereignty by representing, insofar as it is reasonably possible, the mind of every individual in the sovereign state. In ecclesiastical sovereignty, however, we are dealing neither with ideals nor theories, but with a divine institution. Nor need delegates to an Ecumenical Council be concerned with the mind of the people, but with the deposit of faith, of which they are the guardians.

The divergent problems which had to be dealt with made it imperative that a definite program of procedure be carefully worked out before any of the major questions were placed before the general sessions of the Council. As a result of the several preliminary discussions which took place during the first month, a meeting was arranged for December 7 between the Cardinals and certain others of the higher clergy at the Episcopal Palace, for the purpose of discussing the mode of procedure that would best insure the unity and reform that the Council desired.[29] Various plans dealing with the question of the schism and Church reform were suggested at this meeting. A plan, submitted by the Italian delegates, asked simply that the Council ratify the decrees of the Council of Pisa; that it recognize John XXIII and repudiate the other two claimants, and if necessary, use force to bring them to obedience. This plan was somewhat revolutionary in character, since it also suggested that a General Council be held every ten years, and would empower the Cardinals—even two or three of them—to convoke these periodic Councils should the Pope refuse to do so. In its provisions for reform, measures were prepared against simony, the transfer of bishops against their will, and the subjection of the clergy to the secular power. Inasmuch as the Pope was forbidden to act in any matters of serious moment without the consent of the Cardinals,[30] this plan practically destroyed the authority and jurisdiction of the Popes.

D'Ailly's Plan for Unity

A plan submitted at this meeting by Cardinal D'Ailly,[31] agreed in part with the proposals of the Italian

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29 VDH., IV, i, 23.

30 *Ibid.*

31 Bzovius quoted in VDH, also Vienna MS., VDH., II, vii, 193 ff. Cf. *Praefatio ad Lectorem, ibid.*, I, x.

delegates, and called also for the confirmation of the Council of Pisa. D'Ailly, likewise, discussed certain of the measures that had been already proposed to insure the restoration of Church unity. Cardinal Fillastre[32] proposed that the three claimants should be compelled to submit to one obedience, which obedience would be determined by the Council after a juridical examination of the rights of the three. He urged, moreover, that in the event of the refusal of the claimants to abide by the decision, they should be forced to submit. D'Ailly very aptly pointed out, however, that it was precisely these methods that failed at Pisa, and suggested that persuasion might avail where compulsion would be futile; that it would be more profitable for Church unity, were the Council to use its influence rather than its power.[33] As discussion of these matters inevitably turned the mind of the delegates to the election of a new Pope, D'Ailly also went on record as favoring the selection of any fit candidate, even though he were not a member of the Sacred College. He suggested that twelve, more or less, of the more distinguished ecclesiastics, exclusive of the Cardinals, should be deputed by the Council to act in concurrence with the Sacred College to choose a fitting candidate.[34]

The Reform Plan of the Cardinals

A more detailed plan, which not only was far reaching in its various proposals for reform, but took care of future contingencies as well, was offered at this same meeting by Cardinals Zabarella, Castiglione, Landulf, and Chalant.[35] It demanded a reform in the curia by which its membership should be reduced to the number of preschism days, and that the cases subject to its court should

32 Bzovius in VDH., II, viii, 208-213.
33 Vienna (Caes) MS. in VDH., I, vii, 278.
34 *Ibid.*
35 Bzovius, in VDH., IV, i, 25-26.

be lessened. The plan submitted by the Italian delegates was followed as regards periodic Councils—General and Provincial, the transfer of bishops, the restrictions on the Papal power, and the interference of the secular power in matters ecclesiastical. It also suggested that in the future tithes should be levied only with consent of the Council. The worst evils of the time, namely, dispensations from orders, the absence of bishops from their sees, the plurality of benefices, the participation of prelates in military campaigns,[36] simony, concubinage, and the *annates*, were enumerated in the hope that the Council would take the proper measures to correct them. The plan also took into account the possibility of future Papal controversies and made provision for their adjustment through the mediation of the Council. A rule of life for the future Pope—even to his daily *Horarium*, was also included.[37] In regard to these plans, it may be noted that at this early period of the Council, while the Cardinals were in power, the measures submitted, if accepted, would enlarge the powers of the Cardinals at the cost of Papal prerogatives.

Authority of the Council of Pisa

These proposals make clear one matter in which all present at the Council seemed to be agreed, namely, that unity could be assured only by the resignation or removal of the three claimants to the Papacy. On the other hand, it was necessary also to accept the Council of Pisa in order to give some basis to the extravagant claims advanced by the Cardinals, and to act in accord with the Bull of convocation, which stated that the present Council was a continuation of the Council of Pisa. Naturally,

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36 John of Nassau, Archbishop of Mayence, arrived at the Council on January 19, 1415, with a numerous and magnificent escort. He was, according to report, attired in armor on his entrance. Cf. Lenfant, *op. cit.*, I, i, III, also Finke, *Forshungen und Quellen*, p. 255.

37 Bzovius, *l. c.*

John XXIII himself was quite anxious that the Council of Pisa should receive such recognition and the Cardinals were unwilling to repudiate what had been done under their leadership at Pisa. A necessary condition, moreover, of receiving their co-operation lay in the acceptance of its decrees. But to recognize the validity of the Council of Pisa was tantamount to admitting the legitimacy of John's claims and, with this concession forthcoming, no one could refuse to recognize his exclusive rights to the Papacy, since the same Council which had elected his predecessor had also deposed his two rivals. Though a certain show of legality might be urged for this program, no one who came to Constance had any serious notion that he was there to ratify what had been done at Pisa. The present Council was assembled to secure unity even at the cost of repudiating the claims of all three rivals. As a matter of fact, John's claims had no more weight than those of the others except on the assumption, which John would have been the first to repudiate, that the Council was superior to the Pope. For the present, however, he would undoubtedly accept the usurpations of the Cardinals provided that his own claims to the Papacy were left unimpaired.

The Inconsistency of Conciliar Party

But the Council of Constance was called to undo partially what had been done at Pisa and to urge the resignation of the three claimants, without distinction, as the only possible road to union. Such a plan, therefore, must place the Pisan Pope in the same category as the two whom that Council had declared heretical. Due to the fact that for the present the Council of Pisa must remain a final court of appeal, the incongruity of such an action was apparent. If the delegates at Constance were to insist on the resignation of John XXIII, they would also repudiate a measure which the Council of

Pisa had decreed and thereby disclaim the Papal succession which that Council had established. The Council, in fact, must justify its action on the basis that the Papacy was something within its gift, a position which even the Conciliar party was not ready at this time to accept. If there was no legality, there was at least consistency in the attitude of the Conciliar party, even though they were placed in the unenviable position of being called upon to repudiate solemnly in Council what had been with equal solemnity already decreed in Council, to their minds the depository of all ecclesiastical power. The embarrassment in which the Conciliar party found themselves, wrung from D'Ailly their spokesman, the strange admission that Councils could err; that in the past they had erred; and that Pisa, therefore, need not be an exception.[38] Were such an admission carried to its logical conclusion, the unreasonableness of the conciliar contention would be not less apparent than the futility of expecting aid from a Council which, though claiming to represent the Church universal and to be superior to the Pope, could yet fall into error. The solution, as offered by D'Ailly, presented a way out of the difficulty without wholly repudiating the Council of Pisa; but it was committing the Conciliar party to a principle which in its very nature must be suicidal to their interests.

The Numerical Superiority of Italian Delegates

These discussions prepared the way for decisive action, but it was necessary to await the arrival of Sigismund and the French and English delegates before anything definite should be done. The suggestions urged by the Italians and the Cardinals, that the present Council ratify the decrees of Pisa and legitimize the claims of John, made it quite evident that the Pisan Pope had

38 Vienna MS. Parte ii, *Act C. C.*, f. 188 in VDH., II, viii, 200-201.

a powerful following which, if matters came to an issue, had sufficient voting strength to overcome any opposition to him. The fact that John had practically all the Italian delegates in sympathy with him made the question of voting of paramount importance. Should the Council follow the traditional method of voting— that is, through the individual votes of Cardinals, bishops and abbots, the claims of John XXIII seemed secure, since the number of Italian ecclesiastics among the higher clergy, who were present at Constance, outnumbered the combined strength of all others present.[39] The reason for this great numerical superiority is readily explained. In Italy from the days of the early Empire, the Roman municipal system had been followed in the establishment of ecclesiastical sees, and as a result the *municipium* had become the unit of ecclesiastical division. On the other hand, in the trans-alpine countries, in accord with the feudalistic trend, large territorial domains had been attached to the bishoprics.[40] As a result, therefore, the

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39 "Et licet clarum de jure videatur, quod perscrutanda sint vota per capita singula; quia tamen plures sunt praelati Italiae pauperes, quam fere de omnibus nationibus." . . . Bzovius in VDH., II, viii, 230.

40 In the beginning of Christianity, due to the impracticability of establishing regulations in the matter, the territory of a bishop's see was limited by the domain over which he exercised influence. By the middle of the third century, however, at least in the East, every Christian community of importance had become a diocese with its own bishop. A similar plan had been followed in Southern Italy and Northern Africa, where quite a large number of sees existed at this date. In Northern Italy on the contrary, as well as in Gaul, Germany, Britain, and Spain, but few dioceses had been erected. As the number of the faithful in the smaller towns and rural districts increased, it became necessary to determine the precise limits of each see. For this purpose, the cities of the Roman Empire with their clearly defined suburban districts, furnished a model that for practical purposes the Church could very well accept. From the fourth century on, it was a generally accepted fact that each city should have its own bishop and that the neighboring city should be the boundary line of the diocese thus constituted. This plan was rigidly adhered to in the East; but in the West, Pope Innocent I objected to the Church conforming itself to all civil divisions which the imperial government might introduce. In practice, however, the model of the Roman *municipium* was generally followed. Boundaries laid down by the earlier Gallo-Roman municipal system marked the limits of the dioceses in the Frankish Empire. (Cf. Van Hove, A., article "Diocese" in the *Catholic Encyclo-*

bishoprics of Italy, though much smaller territorially, far outnumbered those of Germany and France. In addition to this national advantage, John XXIII had made his position even more secure by appointing a number of his Italian followers to titular bishoprics.[41] Actually when the Council opened more than one-half of the potential voting strength of the Council was on his side.[42]

D'Ailly's Plan for Voting

Though himself an appointee of John XXIII, Cardinal D'Ailly was the first to make an aggressive stand against the numerical strength of the Pisan Pope and to suggest a method which would lessen his advantage. He maintained that whereas in the past only bishops had a definitive vote in Council, this privilege had been accorded them because of their administration over people, and because they were holy and learned men chosen above others in the Christian Church; and that later and for the same reason, abbots also were given the right. He concluded, therefore, that as at present the learning

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pedia, vol. v, pp. 1-2). This arrangement, however, due to the comparatively few cities in that portion of the earlier Empire did not make for a large number of sees so much as for wide domain for the individual bishop. St. Boniface endeavored to organize dioceses in line with the later political development and made a beginning in Bavaria. But the difficulty of reconciling episcopal and monastic rule prevented the fulfillment of this plan (Cf. Flaskamp, F., "Missionsmethode des Hl, Bonifatius" in the *Zeitschrift fur Missionswissenschaft*, vol. xv, pp. 28-29, 86-96; and Schmidlin, J., *Katholische Missionsgeschichte*, p. 135). Though a number of sees were erected in the time of Charlemagne, especially in Saxony (cf. list in Schmidlin, *op. cit.*, pp. 135-141), the later policy of Otto I prevented further development. In his efforts to check the growing power of the nobility, Otto made the bishops a greater factor in the political life of the Empire. As a result, in the lands of the German Empire, the bishops became feudal lords also. But at the same time in spite of further political development, there was no appreciable increase in the number of sees.

41 . . . praeterea Dominus noster [i. e. Johannes XXIII] fecit in numero excessive praelatos cubicularios ultra quinquaginta: dicitur praeterea, quod multos voluit sibi obligare juramentis, et muneribus, alios minis terruisse, ut ita scrutando per capita nihil fieret nisi quod vellet Dominus noster. Bzovius, *l. c.*

42 Hefele-Leclercq, VII, p. 187; cf. Lenfant, *op. cit.*, I, xxvi (Preface).

would be found among the doctors of theology and canon or civil law, they were, therefore, also entitled to the privilege of a definitive vote. For confirmation of this theory he appealed to the recent Councils of Pisa and Rome where such privileges were recognized, reasoning, perhaps, that in this instance at least the Council of Pisa could not err. He declared further that under present conditions it would be unjust to exclude temporal princes and their ambassadors from voting since the peace of Europe was at stake.[43] This plan though based on the newly popularized theory of representation, nevertheless contravened the traditional custom that bishops alone *de jure* and *ex officio* had the right to a definitive vote. In addition, his plea, that in former times bishops had such rights because of their administrative powers, overlooked the fact that they had such powers of administration because they were bishops and successors of the Apostles and witnesses of tradition.[44] Revolutionary as this plan was, it appears to have aroused no protest.

Plan of Cardinal Fillastre

Indeed Cardinal Fillastre went even further than D'Ailly and suggested that parish priests and deacons be also given the right to vote.[45] But the Council was not ready for such a radical departure, so for the moment the plan of D'Ailly found favor. Even the acceptance of D'Ailly's plan, though it lessened the advantage which John held, did not, however, wholly destroy his superiority in numbers.[46] An even more radical plan, however, was shortly to be proposed and accepted, when the full strength of the nations had gathered for the Council.

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43 Bzovius, in VDH., II, viii, 224-227.
44 Billot, etc. (note 50 chapter I of this work).
45 Bzovius, in VDH., II, viii, 226-231.
46 Hefele-Leclercq, *op. cit.*, vol. VII, p. 187; Creighton, M., *History of the Papacy during the Period of the Reformation*, vol. I, p. 277.

Some of the English delegates, among them Robert Hallam of Salisbury, arrived at Constance while the meeting of December 7 was in progress,[47] but all the English churchmen did not arrive till six weeks later. On December 21 the French delegates arrived, but the representatives of the University of Paris were not with them.[48]

Arrival of Sigismund

By Christmas, however, nearly all the delegates had assembled at Constance. Sigismund himself arrived only in time to be present at the Midnight Mass and, according to De Vrie,[49] to read the Gospel of the first mass. Van der Hardt,[50] as so many others since his time, remarks on the significance of the opening words of this passage in the Gospel, *A decree went forth from Cæsar Augustus,* so appropriate it would seem on such an occasion from the lips of one who sought to embody the traditions of the Cæsars and whose edict had done so much toward assembling the Council.

Sermon of D'Ailly

The touch of drama that was given to the entrance into the Council of the Head of the Empire was heightened by the sermon which Cardinal D'Ailly [51] preached at the formal reception that was tendered him. In this sermon, in which he took for his texts the words: *Erunt*

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47 Dacher, in VDH., IV, i, 23.

48 *Idem.*, VDH., IV, i, 25.

49 *Historia Concilii Constantiensis,* Prosa Libri Sexti, distinctio III, in VDH., I, i, 155.

50 "Non sine singulari vel consilio vel omine, quod fata ostendunt Concilii secuta," he remarks parenthetically in quoting Nauclerus. VDH., IV, i, 28.

51 Strasbourg Ms. in VDH., I, viii, 436 ff. In his preface to this sermon Van der Hardt states that it was delivered in 1417. Lenfant (*op. cit.*, I, i, 177) and Finke (*op. cit.*, II, p. 386) both agree that it took place immediately after the arrival of the Emperor at Constance, and not later than December 28, 1414. Finke discusses the possibility of its taking place on December 25. One thing is certain. A date as late as 1417 is out of the question as the contents of the sermon would be meaningless then.

signa in sole, luna et stellis, D'Ailly likened the Pope to the sun, the Emperor to the moon, and the delegates to the stars. Though he extolled the Papacy, he also argued that the greatness of the individual Pope is contingent upon his lawful entrance into that office, his good life, and his beneficent rule over Christendom. Nor was D'Ailly reticent in regard to the Emperor. He warned him that he must not seek to preside in the Council; but, as "another Constantine," he must use his power to execute what decrees the Council might enact. In regard to the convocation of the Council, he declared that while as a rule the delegates to the Council should be called by the apostolic authority of the Sovereign Pontiff, it was a rule which suffered exceptions, and, pointing to the Council of Pisa as an example of such exception, he insisted that anyone who maintained otherwise was following, not the spirit of the law, but the letter. He submitted also that the power of "discerning and defining" must not be attributed to the Pope alone, but to the whole Council, and in support of this contention appealed to the form in which the decrees of the Councils were promulgated, namely, *Placuit Sancto Concilio* and especially to the phraseology used by the Apostolic Council of Jerusalem, *Spiritui Sancto et nobis*. Here, however, it may be submitted, D'Ailly himself appears to be applying the letter of the law with some rigor.

The *Salvus Conductus*

Shortly after his arrival, Sigismund once more protested against the detention of John Hus, since he was under the imperial "Safe Conduct." The Council refused, however, to surrender its own claims to the person of Hus, since the delegates maintained that the Council must be left free in matters of faith and allowed to proceed as it saw fit against heretics.[52] The point was made

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52 Cerretanus quoted in VDH., IV, ii, 32; Schaff, *op. cit.*, p. 186.

moreover that a heretic, discovered in heresy, had no right to any imperial safeguard.[53] The position taken by the Council placed Sigismund in an embarrassing situation, for the imperial word had been given as a pledge for the safety of Hus. The Emperor undoubtedly would have willingly released him; but, should he do so, the Council, upon which all his hopes were based, could at once make the claim that he was interfering with their freedom of action. Sigismund had good reason to fear that any interference on his part might be the occasion of disrupting the Council, so at length he acceded to the wishes of the delegates and allowed Hus to be placed under guard in the convent of the Dominicans at Constance.[54] On March 3, the enfeebled health of the Bohemian heresiarch necessitated his removal to the convent of the Franciscans.[55]

Culpability of Sigismund

In regard to Sigismund's actions in his dealings with John Hus, it may be said that the judgment passed upon him by Lenfant is somewhat severe. The French historian maintained that, at Constance, Hus was "not only the victim of his enemies but of the weakness, not to mention perfidy, of Sigismund."[56] It is an injustice

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53 In his history of the Council Ulrich von Reichenthal wrote: "Da Huss in de Pfalz behutet ward, in derselben zeit hätt ihn unser Herr der König Sigismundus gern geholffen und ledig gemacht. Forcht vielleicht seines Bruders Zorn, und auch dass er desto furderlicher der Böhmer Huld verlöhr. Und meint, es war ihm eine grosse Unehre, solt er also sein frei sicher geleit, so er ihm geben hätte, also brechen. Da antworteten ihm die Gelehrten: Es mogte noch konte mit keinen rechten sein, dass kein Kezer, der in der Kezerei begriffen wurde, müge noch kunte geleit haben. Da unser Herr der König das erhörete und vernahm, da liess er es gut sein." VDH., IV, vi, 397.

54 Brunswick, Leipzig, and Gothenberg MSS. in VDH., IV, vi, 389. The Council absolved Sigismund of all blame and placed an excommunication against anyone who would slander him. Vienna (Dorre) MS. in VDH., IV, viii, 521-522.

55 VDH., IV, ii, 47; Schaff, *op. cit.*, pp. 179 ff.

56 *Op. cit.*, I, i, 82.

to the Emperor, however, to suggest perfidy in this matter, for he undoubtedly thought at the time when he issued the "Safe Conduct" that he would be capable of redeeming it and it is extremely doubtful if he had any thought of treachery when he first induced Hus to go to Constance. The charge of weakness nevertheless must stand. Following the first outburst of indignation over the detention of Hus, he dared not demand again that consideration be given the "Safe Conduct."

Method of Voting Is Discussed Once More

With John Hus safely lodged in prison, the Council again turned to the matter of voting. The delegates from Poland, who had come to protest against the marauding expeditions of the Teutonic Knights, arrived on January 10, 1415,[57] and were followed by the last of the English delegates, on January 31.[58] The fewness of the number of English delegates, in all there were but twenty,[59] in contrast to the prestige of their nation was a factor which once more opened the question of voting. It was quite obvious that, even though the plan that had shortly before been suggested by D'Ailly were accepted, the Eng-

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57 *Ibid.* I, i, 111. The Teutonic Knights had been called into Prussia under their worthy Grand Master, Hermann of Salza, in 1226 to undertake the subjection and conversion of the heathen Prussians. After the fall of Acre (1291) they transferred their headquarters to Marienberg. When the Poles, following their conversion found themselves attacked by the Prussians, they also appealed to the Knights and as a reward for the succor rendered had given them territory bordering on Prussia. Later, under pretext of converting pagans the Knights invaded Lithuania and even parts of Poland. Bitter wars followed between the Knights and the Poles. When the Council of Constance was convened Ladislas of Poland and Withold of Lithuania sent delegates to ask the intervention of the Council. Cf. Lenfant, *op. cit.*, I, i, 236-239. On July 6, 1415, at the Council, Paul Vladimir of Cracow made an appeal for the condemnation of the Knights. Vienna (Caes) MS. Parte iv, *Acta. C. C.*, f. 158, in VDH., III, iii, 9ff. On September 16, 1416, the Council received assurance from the Grand Master that hostilities would be stopped. VDH., IV, ix, 871-874. This promise did not end the warfare, however.

58 Lenfant, *op. cit.* (*Journal du Concile de Constance*), II, 389.

59 Fillastre, *Gesta Concilii Constansiensis*, Finke, II, p. 34.

lish delegates would have little better representation than if the Council were to register its vote in the traditional way. A plan was now adopted, therefore, which went far beyond the radical suggestion advanced by D'Ailly and turned a Council of the Church into what might be called a "League of Nations."

The Vote by Nations

The new method of voting which the Council accepted, namely, the *vote by nations*, reduced the total number of votes in Council to four units which were to represent the major geographical divisions of Europe. Of these four divisions England was given the representative position of the northern unit which included also Ireland, Scotland, Wales, and the Scandinavian countries. Germany, which was to represent the eastern unit, included Hungary and Poland; while Italy, as representing the southern unit, included the islands of Cyprus and Crete. France alone, at this time represented the west.[60] According to the accepted plan, each of the four units was to nominate a number of delegates, either clerical or lay, who were to consult apart from the other nations on matters which they wished to be brought before the Council. When they reached definite conclusions on these matters they were to communicate with the delegates of the other nations, and upon an agreement being reached by this so-called Congregation of the Nations, the matter agreed upon was to be presented in the General Session of the Council for final approval and validity.[61] In this manner nothing was defined or acted upon

60 Cf. VDH., II, viii, 230-231; IV, ii, 40; Wingfield MS. *l. c.* V, iv, 95 (English apology).

61 "Hac igitur sapientia tanquam claritate praepollentes viri illi, quos sapientia mea perfudi, rectores sacri concilii, in quibus residet mundi totius sapientia, pro sanctae unionis fundamento, et horrendi schismatis exterpatione, totam congregationem primo in quatuor nationes diviserunt, videlicet Germanicam, Gallicam, Italicam et Anglicam. Cuilibet vero nationi praesidentem praefecerunt. Praesidentes vero mutantur de mense-

by the Council until it had received the approval of the nations, and in the General Session itself, the vote was cast by the national units.[62] This plan was accepted as the recognized purpose of the Council when it received the approval of Sigismund. His attempt, however, to have Hungary admitted as a fifth nation was overruled.[63] Had Sigismund's request been granted it would have given him a commanding control of the Council as the

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in mensem. Ut sic quod salutiferum fuerit, et utile, per omnes nationes concludunter.'' De Vrie, *Historia Concilii Constantiensis,* Prosa Libri Sexti, Distinctio vi, in VDH., I, i, 157-159.

''Parque jus votorum Nationibus datum, omnis confusiones vitandae causa, ut qualibet natio unam dumtaxat haberet vocem seu unum votum publicum, adeoque in toto concilio *non nisi quatuor Nationum existerent.* Quaelibet vero Natio iterum distributa in certos deputatos causarum scrutatores. Quibus datus praesidens seu praeses quod officium singulis mensibus mutatum teste Theodorice Vrie. Sic facilis et brevis in qualibet natione rerum consultatio, facilisque conclusio, quin et prompta cum aliis nationibus deliberatio atque consentio. Van der Hardt in *Praefatio ad Lectorem.* I, X, 568.

The statement in Van der Hardt (V, iv, 67) ''nullo tamen decreto concilii, nullaque ordinatione intervenientibus'' has lead Bishop Creighton to conclude that the method of voting by nations was not accepted by the Council. Van der Hardt, however, quotes Cerretanus in *Acta C. C.,* as follows: ''Die Jovis, septima Februarii, post nonullas disceptationes decretum est, ut in Concilio per Nationes et non per vota procederetur.'' VDH., IV, ii, 40. It should be added, moreover, that the phrase which Creighton quotes is taken from the French apology against the English on the occasion of the entrance of the Spanish delegates into the Council. It should not be overlooked that in this apology the French urged as an alternative to allowing the English to retain their vote, the repeal of the vote by nations. All available manuscripts of course testify that the nations themselves, exclusive of the Italians, decided the question. Cf. Cerretanus, *Liber Gestorum C. C.,* in Finke, *Acta C. C.,* vol. II, pp. 210-211; De Turre, *Acta Concilii* Finke, op. cit., II, p. 253; Fillastre, *Gesta Con. Const.,* Finke, *op. cit.,* II, p. 19 Finke, *Forschungen und Quellen,* pp. 256-257. It is possible, however, that the other nations had no desire to bring the matter before a general assembly of the Council as the Italian nation might not only make an issue of it, but could in all likelihood have voted down the proposal to which the other three nations had agreed. The Vienna and Erfurt MSS. give the program of the public sessions in which votes are registered *nationaliter.* Cf. VDH., V, iv, 104-107.

62 ''Ut nil *conciliariter* defineretur nisi *nationaliter* prius esset, quatuor nationibus semper concurrentibus, conclusum. Quo pacto Conciliare decretum nil fuit aliud quam publicatio atque confirmatio ejusdem *decreti Nationalis.*'' VDH. *Praefatio ad Lectorem,* I, x, 570. Cf. *Modus observandus in publica sessione* in Mansi, *op. cit.,* XXVII, coll. 1229-1230.

63 De Turre, *Acta Concilii,* in Finke, *Acta Con. Const.,* II, p. 351.

German and English nations supported him in all his proposals until the death of the English leader, Bishop Hallam of Salisbury, near the end of the Council.

Responsibility for Suggestion

Though Creighton [64] says that the suggestion of this plan came from Bishop Hallam, there is no direct evidence to show who were its immediate authors. As a matter of record the agreement to vote in this unprecedented manner was made at a joint meeting of the English and German delegates on February 6, 1415, and the acceptance of the plan was assured on the following day, when the French delegates also agreed to the suggestion.[65] The Italian delegates protested strongly against this measure; but their remonstrances were in vain and, failing to make an issue on the subject, they were finally forced to accede.

Source of the Method

In adopting this method of voting, the delegates at Constance may have been influenced to a certain extent by the method employed in voting at the University of Paris. The fact that at Paris there was a division of the students into nations might lead one to conclude that the Council of Constance derived its method of voting from this practice, but such a conclusion is hardly warranted. In the first place, the division at Paris was based upon provincial rather than national lines, for the so-called nations at the Universities comprised France, Normandy, Picardy, and England—the last mentioned at this time holding territory in France.[66] Secondly, in the matter of voting at the University, the units were

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64 *Op. cit.*, vol. I, p. 277.

65 Cerretanus, *Liber Gestorum C. C.*, in Finke, *op. cit.*, II, pp. 210-211.

66 *Chartularium Universitatis Parisiensis*, iii, 56-59.

not the nations, but the five faculties of the university, of which the nations were but a part, comprising the faculties of Philosophy and Art; while the other faculties represented in the registering of votes were the faculties of Theology, Law and Medicine.[67]

Was Method Justified?

Perhaps it might be argued, considering the situation in which the Council was placed, that it was a good thing to adopt such a method of registering the mind of the Council, since the acceptance of the traditional method presaged insurmountable difficulties in the way of allowing the Council to realize its purposes. The traditional method of voting, it is true, presented a difficulty in the person of John XXIII, but he was at Constance because of the mistakes of the Council of Pisa. Surely it was not helping matters much to do a second wrong in order to right a previous one. Was this method, moreover, justified in view of the fact that the national consciousness of Europe was more and more asserting itself in a way that was dangerous to Church unity? Indeed an Ecumenical or General Council itself might have been the means of convincing all factions that the Church should be above national lines. Yet at Constance the

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67 Masson, A. L., *Vie de Jean Gerson*, pp. 42, 89. Cf. Rashdall, *op. cit.*, vol. I, pp. 300-316, 325. In the apology of the English delegates on the matter of the admission of the Spanish delegates as a national unit—which will be discussed later—there is what seems a direct reference to the source of this method. The reference is not made however to the division of the University of Paris into "Nations" but to the method of representation by which the seven corporations of the university registered their votes. Leipzig MS., in VDH., V, iii, 99.

Gierke sees in the plan of voting by nations a consummation of the medieval idea to guarantee a certain amount of independence to the smaller bodies that were component parts of a larger group, a resultant of the rules that dealt with the joint action of a number of corporations. *Op. cit.*, cf. note 229, p. 167. It appears a reasonable explanation of the source of this method of voting and the motive which urged the adoption of this method, namely, the dominating numbers of the followers of John XXIII, argues in its favor. We will see, however, that this method did not live up to its ideal.

national sentiment of western Europe was taken for granted and the national divisions within the Church were emphasized by the acceptance of this novel method of voting. Then, too, this plan served to confirm the delegates in their attitude of national representatives, for this method of voting was considered and openly declared to be something permanently established for subsequent Councils.[68]

The Method Was Revolutionary

Apart from the individuals who might constitute each national delegation present at the Council, this method of voting took away the right of voting individually which was the prerogative of the delegates, whether according to divine law, as in the case of bishops, or according to ecclesiastical law, as in the case of Cardinals—who might not be bishops, abbots or Superiors of Religious Orders, and substituted a right to vote as a delegate in some national group. The adoption of this method of voting did not take into consideration that the right of these ecclesiastics to discussion and to a deliberative vote in Council was not derived from their representation of a given locality, but solely from their spiritual office and their capacity as successors of the Apostles and witnesses of tradition.[69] Not even the most radical advocate of this method of voting could point to an Ecumenical Council as recognizing territorial representation as the basis for a definitive vote in a Council of the Church.[70] After all, however, it seemed quite fitting

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68 This will be seen later in the English apology against the French on the occasion of the entrance of the Spanish delegates into the Council.

69 Cf. Billot, *l. c;* Pesch, C., *Praelectiones Dogmaticae,* I, II, 4, i. Forget, J., *Dictionnaire de Théologie Catholique,* article "Conciles," III, 664-669.

70 At the First Ecumenical Council of Nicaea all bishops were invited to attend. Present also were the *chorepiscopi* (auxiliaries appointed to take care of the country districts under the jurisdiction of the bishop of the city). Cf. Eusebius, *Patrologia Graeca,* xx, p. 1061; Socrates, *Patro-*

that the Council of Constance should commit itself to such a method since in its early stages it was so much affected by the Council of Pisa. At the latter Council, the delegates by their actions declared that the Council is superior to the Pope and had thus obliterated the center of unity. At Constance then, with the one institution which could lift Christendom to a supra-national basis thus rendered helpless, it was not surprising that the Council should resolve itself into national units.

It Was not Expedient

Though much might be said in favor of this method of voting on the ground of expediency, yet such a sweeping departure from the traditional method of the Church could not fail to promote national divisions and rivalries where spiritual unity and authority should have been paramount. And even on the ground of expediency, which is the only apology, this method of voting was not justified in its results. As Creighton says,[71] "The Conciliar division into nations, adopted with a view of lessening the influence of the Pope, became in the end a hindrance to united action. The Nations, deliberating apart, had just enough contact with one another to intensify national jealousies, and not enough to eliminate national selfishness." Furthermore, this method of voting served to hinder legislation, as we learn from the protest made

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logia Graeca, lxvii, p. 61; Mansi, *op. cit.*, II, col. 548, 693: Hefele-Leclercq, *op. cit.*, I, p. 27; and the article "Bishop" in the *Catholic Encyclopedia* by A. Van Hove. The great influence of the Council of Nicaea, according to St. Athanasius (P. G. xxvi, 1031), was due to the number of bishops who were present. Priests and deacons could likewise represent their bishop as procurators and subscribe to the articles of the Councils. Cf. Mansi, *op. cit.*, III, 568, VI, 935. We find that by the time of the Council of Chalcedon in 451 the *chorepiscopi* are no longer present (Mansi, *op. cit.*, IV, 1218). According to Van Hove they were abolished with the institution of parishes. There is no trace of the laity exercising the privilege of voting (Hefele-Leclercq, *op. cit.*, vol. I, p. 40), nor is there any Ecumenical Council prior to that of Constance at which the voting was registered in group fashion.

[71] *Op. cit.*, vol. I, p. 419.

by the French after the method had received a thorough trial. They complained that each nation was selfishly deliberating by itself without regard to the convenience of the others, and that matters were definitely settled in certain nations before the French were informed in their regard.[72]

It Involved Yet Another Difficulty

This arrangement also caused a further difficulty inasmuch as the question as to what constituted a "nation" could not be definitely answered at this time. The fact that France, Italy, Germany, and England were the dominant powers of Europe certainly did not justify the incorporation of other nations under them.[73] Carried away by the hope that the acceptance of this method of voting would crush the numerical superiority of the Italian delegates, the other three nations gladly accepted the plan. By this action, however, the Council prepared the way for a future difficulty, since the plan as accepted did not take into consideration the possibility of a fifth nation coming to the Council and demanding the same rights as the four dominant powers now held.[74]

Resignation of the Three Claimants Is Now Demanded

The practical effect of this method of voting was, however, immediately obvious, for on February 16, the French, German and English nations met, and, styling themselves "the majority of the Council," demanded the resignation of the three claimants to the Papacy.[75] This was the first open challenge in the Council against

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72 Brunswick MS., in VDH., I, xiii, 785.

73 As a matter of fact at the Council of Basel where the French and German clergy predominated the *vote by nations* was abrogated.

74 The entrance of delegates from the Spanish Peninsula, as will be seen later, caused much difficulty and a bitter strife between English and French delegates.

75 Vienna (Caes) MS., Parte iv., *Acta C. C.*, f. 68, in VDH., II, viii, 230-231.

the legitimacy of the claims of the Pisan Pope. John XXIII now realized that he had little hope of retaining his hold on the Papacy. His position, moreover, was not helped by the arrival on the following day of the delegates of the University of Paris, but on the contrary the position of the Conciliar party was enhanced because among these delegates was John Gerson, the Chancellor of the University and the representative of the King of France.[76] It was not, however, because of his place or the ambassadorship with which he was honored but because of his scholarship that this churchman was an outstanding figure among all delegates present. Lenfant[77] calls him the "soul of the Council," and there is no doubt that he was the one to whom the delegates turned in all questions dealing with the juridical powers of the Council. It may be remarked also that, while there were among those present at the Council, many who were mere opportunists, we do not find Gerson on any occasion actuated by what would appear to be selfish motives.

John XXIII Must Resign

With the settling of the matter of voting and the arrival of the delegates of the University of Paris, the Council was at last ready to begin its work. John XXIII was especially anxious that the Council should first undertake the work of examining the heretical teachings of John Hus, since any delay in the discussion of his own claims was advantageous to him. There was always the possibility that, in the discussion of other matters, especially the heresy of Hus, the Council itself might come to such an *impasse* as would afford him an excuse to dissolve or prorogue the Council. But the delegates were of another mind. To them John appeared at this time as

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[76] Cerretanus in VDH., IV, i, 43; cf. *Vita* in VDH., I, iv, 26 ff.
[77] *Op. cit.*, I, i, 112.

the most formidable obstacle to Church unity, as there were quite definite rumors in circulation that Gregory XII would willingly resign once he had the assurance that the Council was able to secure the resignations of the other claimants,[78] while it was also felt that Sigismund might be able to effect a treaty with the Spanish princes who were supporting Benedict XIII, one of the conditions of which would entail the withdrawal of their obedience from the Avignon Pope. But it was useless for Sigismund to hope for such a treaty as long as the Pisan Pope remained in the field. The delegates, therefore, definitely committed themselves to securing the resignation of John XXIII, before taking up any other matter for consideration. The request that had been made by the three nations, on February 16, was tantamount to a notification to John that he need expect no more consideration from the Council than would be accorded his rivals. Nor did it add much to his peace of mind when, two days later, Sigismund himself came to him and urged him to abdicate.[79] The hopelessness of his situation, however, was brought home to John when the nations assembled for a series of meetings during the last four days of February. At these meetings the deputies discussed the matter of making an inquiry into the Papal claims of John and of proceeding to a scrutiny of his life.[80] John had good reason to fear the result of such an investigation and knowing too well that he was already discredited for the abuse he had made of the Papal office, he was now reduced to the slender hope that the Council might be dissolved before any action dealing with his claims could take place.

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78 VDH., IV, ii, 41.

79 Cerretanus, in VDH., IV, ii, 43.

80 VDH., IV, ii, 41. Cf. Nieheim, *De Vita et Fatis Johannis, XXIII, etc.* Liber II, chap. iii, in VDH., II, xv, 391-392.

Resignation of John Is Requested

In the meantime plans had matured to have Sigismund go to Nice in France and there negotiate with Benedict XIII in the matter of his renunciation. As Benedict was expected to insist that the other two claimants should also resign, the three nations waited on John XXIII, March 9, and asked him to make Sigismund and his party, who were about to set out for Nice, procurators of his resignation. This John refused to do; but found that the only delegates that were at all in sympathy with him were those of the Italian nation.[81] On the following day, which happened to be *Laetare* Sunday, he bestowed the Golden Rose on Sigismund in the hope, it was said, that this gesture of good will on his part might induce a reciprocal act of friendship on the part of the Emperor. Sigismund received the Rose, but refused to acknowledge it as anything personal and placed it in the Cathedral at Constance.[82]

It Is Feared That John Is About to Flee

The hopeless plight of John and his evident unwillingness to resign caused many to fear that he was planning to escape from Constance in the hope of thus dissolving the Council. The gates of the city were, therefore, guarded carefully day and night; but John protested against such restrictions upon his freedom of action and disclaimed any intention of quitting Constance.[83]

Indiscretion of Sigismund

Sigismund was particularly anxious that all four nations should use all persuasion possible to induce John to appoint procurators for his renunciation in order

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81 VDH., IV, ii, 54.

82 Dacher and Reichenthal in VDH., IV, ii, 55.

83 Cerretanus, in VDH., IV, ii, 55; Vienna MS., Parte i, *Acta C. C.*, f. 68, in VDH., IV, ii, 55.

that he might himself start at once on his mission to Nice. His eagerness, however, led him into his first mistake. According to the privilege that was given them by the method of voting which the Council had adopted, the French deputies held a meeting March 18, to decide whether they should join with the German and English nations in urging again the appointment of procurators by John. In the midst of their deliberations, Sigismund, with representatives of the German and English nations, entered the assembly and demanded that the French at once approve the proposals of the other two nations. Naturally, the French were indignant at this intrusion and refused to give any response until Sigismund had withdrawn. An open rupture, at this time, was averted only by the reluctant withdrawal of Sigismund at the earnest request of Louis of Bavaria.[84] The French finally adopted the proposals, since they were as anxious as any to secure John's resignation, but the incident was not forgotten. It was a disastrous move on the part of Sigismund since one who was destined to be a powerful factor in the Council during its closing days, Cardinal D'Ailly, was one of the French deputies on this occasion and was more deeply irritated than the others.[85] It is well to note, that this incident demonstrated that the method of voting in vogue at the Council did not at all times secure freedom of deliberation.

Assault Made on the Papal Prerogatives

The futile gestures that were made to secure a definite promise from John that he would resign from the Papacy or give evidence of his good intentions to do so by appointing procurators, made it clear that, if any action were to be taken against him, it must be first demonstrated that the Council itself had power to assert

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84 De Turre, *Acta Concilii,* in Finke, II, pp. 357-358.

85 Fillastre, *Gesta C. C.,* in Finke, *op. cit.,* II, pp. 23-24.

authority over the Pope. The time had arrived when the claims of the Conciliar party must be either tested in practice or abandoned as untenable. It was necessary that the claim which was so frequently made by them, that the Council was superior to the Pope, should be set forth unequivocally and acted upon in practice. The strongest practical reason which they could offer at this time to assert such a claim was an appeal to the Council of Pisa, as the action taken by the Council in relation to the Pope could be accepted on no other basis than the conviction that such a superiority on the part of the Council existed in fact. Many of the leaders at Constance, notably D'Ailly, Gerson and Hallam, had been at the Council of Pisa and were not only sympathetic with what had been done there, but were eager to enforce the same rules in the present Council. On the basis too of D'Ailly's already enunciated theory, that the Council of Pisa might have erred in a given instance and yet could be accepted as an Ecumenical Council,[86] the Conciliar party could now accept, if necessary, the decrees of Pisa which would fortify their contention of conciliar superiority and at the same time repudiate the Papal succession which that Council had established.[87] The discussion on this subject, however, may in a certain sense be said not to have passed the academic stage until the Pisan Pope forced the issue by his dramatic flight from Constance on the evening of March 21.

John XXIII Flees to Schaffhausen

Though John had indignantly denied that he was contemplating a flight from Constance, he was evidently

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86 *Vide supra*, p. 51.

87 On March 11, 1415, Gerard du Puy of Carcassone delivered a sermon in which he discussed the relative power of the Pope and Council. He advanced the proposition that before the transfer of jurisdiction to emperors and kings the people were ruled by assemblies. "Hiis conciliorum modis predictis ante regum et imperatorum creacionem regebatur populus . . . ." *Sermones Concilii Constanciensis*, in Finke, *op. cit.*, II, pp. 405-406.

watching for a favorable opportunity to do so. Such opportunity came to him on the feast of St. Benedict, when his ally, Frederick of Austria, gave a tournament at Constance. While all the notables of the Council were watching the knights perform, John XXIII, who had entered Constance with all honors about five months before, now attired in the dress of a groom and mounted upon a horse befitting the dress of its rider, escaped from the city, and, crossing the Rhine, fled in haste down the right bank to Schaffhausen, thirty miles distant.[88] News of the flight was brought at once to Frederick, who, nevertheless, did not interrupt the tilting contest in which he was engaged. That night, however, he too left Constance and joined the fugitive claimant at Schaffhausen.[89]

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[88] Nieheim, *De Vita et Fatis Johannis XXIII*, Liber II, chap. vii, in VDH., II, xv, 397-398; cf. VDH., IV, ii. 59.

[89] *Ibid.*

CHAPTER III.

MANIFESTATION OF NATIONAL ANTIPATHIES

Helplessness of the Conciliar Party Leaders

The sudden flight of John from Constance made it necessary that prompt and decisive measures be taken at once to prevent the immediate disruption of the Council. Notwithstanding the complacent assertions that had been academically set forth by the Conciliar party, the flight of John found its leaders incapable of dealing with the crisis thus created. The delegates were in consternation, for it now appeared that all the hopes that had been centered in this great gathering had vanished with the fleeing Pope and that the prospect of restoring unity to the Church was now more distant than ever. Numbers of the delegates prepared to leave the city, and several of John's Cardinals sought to join their leader.[1] Accordingly the delegates of the Council were in the unenviable position of having accomplished nothing except to formulate a new theory and of now being able to do nothing except, perhaps, to follow the example of the Council of Pisa and nominate another rival for the Papacy.

Efforts of Sigismund

Sigismund had been equal to the occasion as far as keeping the delegates at Constance was concerned, and at

1 Cerretanus, *Liber Gestorum C. C.*, in Finke, *Acta Concilii Constanciensis*, vol. II, p. 224; Nieheim, *De Vita et Fatis Johannis XXIII*, Liber II, chap. ix, in VDH., II, xv, 399-400.

once forbade any one to leave the city. He himself rode about the city to try and restore confidence to all by the assurance that every effort would be made to bring John back to Constance.[2] To make good this pledge he immediately began operations against Frederick of Austria, and, before many days had passed, that prince found his vassals in Switzerland in arms against him.[3] But to restore confidence in the Council itself was another matter and one entirely beyond the scope of Sigismund's powers. A new situation had arisen which not even the newly formed method of voting nor the frequently asserted prerogatives of the Council could meet. To sustain the waning courage and weakening ardor of the delegates, the one who was the most capable of dealing with the difficulty, John Gerson, was appealed to. As the most learned theologian present, he was asked to formulate a statement on the authority of the Council which would enable it to continue its activity in the absence of the Pope who had convoked it. This he did in a sermon which he preached to the delegates on March 23.

The Sermon of John Gerson

In the statement which Gerson presented on this occasion, the Council was set forth as representing every grade of the hierarchy and all the faithful who had a right to be heard therein and, as having once been convoked, had power to treat in all matters concerning faith and morals. He asserted, moreover, that while the Council could not take the plenitude of power from the Pope, yet inasmuch as he is not above positive law, it lies within the competence of the Council to limit his power in those conditions where the good of the Church made such action necessary. Gerson also maintained that in the event that the Pope were contumacious or that a dis-

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2 VDH., IV, iii, 63 ff.
3 Dacher and Reichenthal in VDH., IV, iii, 64.

pute were to arise over the succession to the Papacy, the Pope himself must accept the decision of the Council, and, if ordered to do so, must resign. In treating the present issue, Gerson was able to conclude that the flight of the Pope in no way compromised the rights of the Council nor prevented it from continuing in session.[4] As might be expected, the University of Paris gave its full sanction to the opinions of Gerson and insisted on the right of the Council to seize the person of John.[5]

Effect of the Sermon

Though formulated to meet a special emergency, the statements contained in this sermon became the rule by which the decrees of the Council in matters affecting the Pope and Council were formed.[6] Confidence in the Council was thus restored as was indicated by the fact that no serious efforts were made to detain the several Cardinals of John XXIII who on the day following the sermon, left Constance to join their leader.

The Writings of Wycliffe Are Condemned

That the flight of John as well as the statements of Gerson served to embolden the Conciliar party was made evident immediately afterward in the condemnation of the writings of John Wycliffe. The examination and condemnation of his writings was a necessary preliminary to the formal trial of John Hus, who, among other things was accused of being a defender of Wycliffe. Since nothing could be done with regard to the claims of John XXIII until Sigismund had overcome his ally, Frederick of Austria, it was thought best to use the present opportunity to carry through the condemnation of these writings and thus be ready to take action in the case of Hus himself. In

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4 Sermon in VDH., II, x, 265 (paged incorrectly as 165).
5 *Ibid.*, II, x, 275 (paged incorrectly as 175).
6 Lenfant, *op. cit.*, I, i, p. 134.

the condemnation of Wycliffe's writings, however, the very practical question arose as to who should condemn them, the Pope who was now in flight, or the Council, or both. Cardinal D'Ailly, representing the Conciliar party, contended that the writings should be condemned by the Council without any reference to the Pope.[7] But he met spirited opposition from the Patriarch of Antioch, John Maurosius, who, though a bitter enemy of John XXIII, wrote and circulated a memorandum in which he insisted that the Pope, except he be in heresy, is not subject to a General Council, and that moreover, all decrees of the Council should be promulgated in his name.[8] The Patriarch was bitterly rebuked by D'Ailly, but in the end it was agreed that the decrees condemnatory of the writings of Wycliffe should be published in the name of the Pope and the Council.[9] In this, as on other occasions, the Conciliar party, faced by an issue which demanded a practical application of its theories, sought to compromise. In this instance, too, the compromise took care of the individual issue then presented to the Council, but it did not solve the question as to where, in the final analysis, ecclesiastical power resided.

The Question of Ecclesiastical Sovereignty

A solution of this problem became imperative, however, immediately as the question arose of depriving the Pope of all power. Added to the difficulties of this problem was the centrifugal tendency which the nationalizing of the Church had effected. Here was a question that had not been foreseen when the Council accepted the new method of voting. Quite obviously if the Church were

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7 Vienna MS., in VDH., IV, iii, 138.

8 Bzovius, *Annal. Eccl.*, in VDH., II, xiii, 295 ff; Hefele-Leclercq, *Histoire des Conciles*, vol. VII, p. 219.

9 Cf. Condemnation of the Forty-Five Articles of Wycliffe, Vienna (Caes) MS. Parte II, *Act. C. C.*, f. 151. b., and Leipzig MS. in VDH., III, xiii, 212-335., cf. *ad calcem* col. 335.

to retain its power of jurisdiction and discipline, it must have a central administration. Whether then, this central administration should consist of a committee of the Council or the oligarchy then in control of the Council mattered little in principle, and as a matter of politics merely gave the Council the option of deciding between two sets of persons. The question really at issue, as it had been throughout the schism, was whether the Council itself would be the efficient force of that power. As at present organized in the Council, the government of the Church was practically reduced to what might be called a parliamentary form, and there were many at Constance who were not averse to seeing this form of sovereignty, as the ultimate depository of power in the Church, established on a permanent basis. There was, of course, no thought at this time of abolishing the Papacy, but a radical change in the status of this office was contemplated, namely, the enlargement of the powers of the bishops to replace the traditional power of the Papacy.[10] That Church sovereignty thus reduced to a parliamentary form might in time follow the course of the medieval civil parliaments and become subservient to temporal princes, appears to have given no deep concern to the advocates of this theory. For the moment, their efforts were bent upon securing all possible power for the bishops.

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10 "Le concile fut en effet dominé par une oligarchie clericale, qui pretendait reglementer l'Eglise, reformer les decisîons qui partaient de la chaire de Saint Pierre et limiter les pouvoirs de celui qui y presidait en etablissant à la tête de la chrêtienté un régime parlementaire. Ainsi l'assemblée declara ne pas se dissoudre, mais s'ajourner a cinq ans, et sous pretexte d'assurer la reforme des abus qui avaient provoqué par le schisme, instituer des conciles généraux periodique a qui reviendrait par la suite des faits un contrôle permanent des actes pontificaux, la surveillance de la curie, finalment le partage des pouvoirs, en commencant par le legislatif . . ." Richard, "La Monarchie Pontificale jusqu'au Concile de Trente," dans *Revue d'Histoire Ecclésiastique,* vol. XX, p. 432.

Opposition to the Cardinals

As was to be expected, the Cardinals presented a barrier to this development, for while they also looked for a lessening of the Papal power, they were by no means ready to allow the bishops to usurp that power in his stead. Representing then as they did an obstacle to the enlargement of episcopal powers, it is not surprising that an early attempt was made to discredit the Cardinals. The fact that John XXIII had now fled from Schaffhausen and had withdrawn still farther from Constance, and the need of introducing a definite reform program at once, gave the opponents of the Cardinals a welcome opportunity to lessen the influence of the Sacred College. On March 29, 1415, it was announced, that, at the Fourth General Session on the morrow, certain reformatory decrees were to be read. The Cardinals learned that in one of the articles, that dealing with the flight of John, there was a needless insult offered him, and that in the first article the phrase *reformatio in capite et in membris* was included. As they knew this phrase was aimed chiefly at them, they made an effort to have both the reference to the flight of John and the hated phrase eliminated from the decrees before they were presented to the Council. That night the Cardinals interviewed Sigismund and pledged themselves to secure the voluntary resignation of John; but requested that his feelings be spared by omitting the reference to his flight, and that the phrase in question be eliminated also.[11]

Tumult at the Fourth Session

Anxious to keep harmony in the Council and nothing loath to use the plight of the Cardinals to secure the resignation of John, Sigismund called a special meeting of

11 Vatican MS. (Schelstrate) p. 233. in VDH., IV, iii, 82-83.

all the deputies of the nations and the Cardinals on the morning of the General Session, March 30. The meeting took place in the aula of the Cathedral during the solemn Mass which preceded the General Session.[12] It was claimed afterwards by the Cardinals that the deputies at this meeting agreed to the elimination of both references from the public reading.

Discussions on the Omission

When Cardinal Zabarella read the decrees, however, a tumult arose.[13] Van der Hardt [14] declares that the wish of the Cardinals in regard to the phrase *in capite et in membris* was not accepted by the deputies at the special meeting and bases his assertion on the fact that the nations were enraged over the omission of this phrase in the public reading and insisted that it be restored and read at the next session. Salembier, after presenting several other hypotheses, suggests that perhaps the deputies did accept the wish of the Cardinals but that they were unable to notify their compatriots of the change before the decrees were read.[15] But it is difficult to assume that the deputies, foreseeing what would naturally appear to the delegates as perfidy, were actually laying a trap for the Cardinals and failed to take the necessary means to prevent such a misunderstanding. It would have been a comparatively easy matter to notify their compatriots of the decision since each nation had a section of the Council hall to itself. Lenfant discusses the matter at some length and after citing available manuscripts and opinions, concludes [16] that there was no exhibition of bad faith on either side; that all was due to a misunderstanding. This explanation might well be

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12 *Ibid.*, Schelstrate, p. 224, in VDH., IV, iii, 84-85.
13 *Ibid.*
14 *Ibid.*, cf. coll. 86-92.
15 *The Great Schism of the West*, pp. 297-299; Cf. footnote p. 299.
16 *Op. cit.*, *I*, *ii*, 149 ff.

accepted for on the one hand the high character of Cardinal Zabarella would seem to refute any charge of formal deception on his part, while on the contrary the subsequent action of the deputies indicates that they were quite unwilling to omit the phrase. The decree was reread at the Fifth Session on April 6, and the article dealing with the flight of John was omitted, but the phrase, *in capite et in membris,* which had caused all the trouble, was included.[17] The incident of the Fourth Session, however, marked the breaking point between the Cardinals and the nations.

Cardinals Discredited

At the Sixth Session, April 17, Benedict Gentiani, a delegate of the University of Paris, openly accused Cardinal Zabarella of mutilating the decree in the Fourth Session, and proposed that the Pope and the Cardinals should be excluded from all discussions on the matter of reform. It was hardly fitting, he maintained, that they should be judges in their own cause. He declared also that the Cardinals were unworthy of participation in the reform program since they had elected such a man as Baldassare Cossa to the Papacy, and had not only declared that the Council was dissolved by his flight from Constance, but had moreover either followed him in his flight or were at least suspected of being in collusion with him.[18] The sentiments expressed by the University delegate, though undoubtedly meeting with the approval of the nations, were not at this time formally accepted by the Council. But it was a warning to the Cardinals of the danger that threatened them.

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17 Dorre, Elstrawe, Brunswick, Leipzig and Gothenberg MSS., in VDH., IV, iii, 98-99.

18 Vienna (Caes) MS. Parte iii, *Act. Conc. Cost.*, f. 298 and Parte iv, post med., 97, in VDH., II, xii, 279-284. Mansi, *op. cit.*, XXVIII, coll. 24-26.

They Join Their Cause to the Papacy

The proposal of such a measure must have convinced the Cardinals that they themselves must stand or fall with the Papal power. Appreciating now the danger to themselves involved in the theories which they had put in practice at Pisa, they practically abandoned their earlier position. They now declared, that with the Pope they formed the principal part of the Council since the Roman Church as well as the General Council represented the Church universal. In direct contradiction to their actions at Pisa they now proceeded to insist upon the unquestioned supremacy of the Pope; that he was judge in his own cause; and that his power was directly from God *principaliter,* and from the Council only *ministerialiter.* The Cardinals then declared that they represented a deceased or absent Pope in the General Council.[19] Obviously then, they might claim the controlling power in the Council during the absence of John XXIII.

The Conciliar Claims Advanced

The opponents of the Cardinals, on the other hand, were not ready to surrender the fruits of their victory. In response to the claims of the Cardinals, they maintained that the Council enjoyed powers at least equal to those of the Pope; that in the present instance it was the duty of the Council and not of the Cardinals to select a worthy Pope, since the Cardinals had already elected the unworthy one whose case was now under discussion. They maintained, moreover, that the relation of the Cardinals to the Pope rendered them incapable of judging matters that were before the Council for consideration. The present crisis, they insisted finally, made it imperative that the Council which was above the Pope should use its full powers.[20]

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19 Leipzig MS. in VDH., II, xii, 286-296.
20 *Ibid.*

Cardinals Refused the Right of Voting

Finding themselves a negligible factor in the Council, the Cardinals, two weeks later, asked to be allowed to vote as a separate body—as a quasi fifth nation—since the English delegates, who had but three prelates present, had the right of a vote. This request was refused and they were told to join their own nations.[21] Here a mistake fatal to the interests of the opponents of the Cardinals was made, for the Cardinals complied with this command from necessity and were able eventually to dominate their own nations, namely, the Italian and the French.

John XXIII Continues in Flight

While this movement to discredit the Cardinals was gathering strength, John himself caused further uneasiness in the Council. Feeling none too secure in his refuge at Schaffhausen he remained there but a few days and then fled successively to Laufenburg, Freiburg, and Breisac.[22] As the Pisan Pope was apparently headed for the territory of the powerful Duke of Burgundy, the Council was deeply concerned over the new turn that events had taken.[23]

The Capture of John at Freiburg

But Sigismund had not been inactive. The insurrection which he had engineered among the Swiss subjects of Frederick made that prince quite ready to sue for peace.[24] Naturally the conditions of such a peace would

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21 Lenfant, *op. cit.*, I, ii, 198.

22 Nieheim, *De Vita et Fatis Constantientibus Johannis XXIII*, Libri II, chap. x, in VDH., II, xv, 399-402.

23 *Ibid.*, VDH., II, xv, 402.

24 Cf. De Vrie, *Historia Concilii Constantiensis*, Prosa Libri viii, dist., ii, in VDH., I, i, 197-200. The defeat of Frederick of Austria was largely effected by Frederick of Hohenzollern, Prince of Nuremburg. Not without great influence on the future destinies of Germany was the appointment of this prince to the electorate of Brandenburg by Sigismund (April 30, 1415). Lenfant, *op. cit.*, II, V, pp. 62-63.

be the surrender of John to the Council. The turn of events induced the fugitive on April 25 to flee to Neinburg, but he was persuaded by Frederick to return once more to Freiburg.[25] Negotiations between Sigismund and Frederick continued and, as a condition of peace, the latter was forced to promise that he would surrender John to the Council.[26] Encouraged by the turn events had now taken, the Council issued the customary citations to John to appear before its tribunal, and on his refusal to do so, ordered his arrest. At Freiburg, May 17, John was captured, but, though now a prisoner and subject to the Emperor, he was not brought back to Constance, but was held in custody at Radolfzell [27] across the waters of the Unter See about two leagues distant from Constance.

The Deposition of John XXIII

Though the result of the trial of John was a foregone conclusion, the Council studiously observed the formalities of deposition which had been used previously at Pisa.[28] Articles dealing with the conduct of the Pisan Pope, not only during the years that he claimed the Papal office, but during his earlier years as well, were read in Council.[29] To what extent, if at all, this indictment exaggerated the vices of John, is difficult to judge; but it does

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25 Cerretanus, in VDH., IV, iii, 114, 136.

26 De Vrie, *op. cit.*, Libri VII, dist. ii, in VDH., I, i, 197-200. Frederick surrendered his territories to Sigismund to secure peace. Cf. Letter to Sigismund, *ibid.*, 199.

27 Nieheim, *op. cit.*, Libri II, chap. xx, in VDH., II, xv. 406.

28 Two or more delegates who were appointed for the office left the Council chamber and came to the gates of the Cathedral. There they loudly called out for Baldassare Cossa to appear for his trial. When, as was expected, there was no response, they returned to the Council and announced that the accused had failed to appear. This formality was repeated on three different days and after the third day the Council declared him contumacious and then proceeded to suspend and depose him. Cf. Lenfant, *op. cit.*, I, ii, 199; Leipzig and Gothenberg MSS. in VDH., IV, iii, 172-175; Wolfenbüttel MS., *ibid.*, II, ii, 97.

29 Leipzig and Gothenberg MSS., *ibid.*, IV, iii, 196-208.

seem that many of his former obedience, especially the Cardinals, paid no compliment to themselves when they accepted the charges against him. His record as Legate of Bologna had given ample proof of his utter unfitness for any ecclesiastical office, yet while Christendom was pleading for a reform they had the temerity to elect such a man to the Papacy. It seemed incongruous too, that many who had received appointments from him should accept among the many charges urged against him, that of simony. After the charges were read and approved the Council gathered for the Twelfth General Session on May 29 and deposed the imprisoned claimant.[30] Two days later John was notified of the Council's action and thereupon gave his own confirmation to the procedure. Though he now protested that he would bow to the will of the Council in all things, he was not trusted and, lest he should seek to escape, was committed to the custody of Louis of Bavaria, who placed him under guard at Heidelberg.[31]

Bishops Seek to Control Benefices

The deposition of John immediately made evident the impossibility of adjusting benefices without a strong centralized power. The absence of John would appear to be more embarrassing to the Council than his presence, for as soon as he was removed as a factor in the Council the latent jealousies, meanness, and petty ambitions of the delegates at once cropped out. The bishops requested that the right of conferring benefices be transferred to them.[32] But this request at once brought forth an immediate protest from the delegates of the universities. They knew well that, were the bishops to have such power,

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30 Nieheim, *op. cit.*, Libri II, chap. xxi, in VDH., II, xv, 407-408. The sentence of deposition may be read in Brunswick, Leipzig, Gothenberg, Dorre and Elstrawe MSS. in VDH., IV, iii, 281 ff.

31 *Ibid.*

32 Leipzig and Gothenberg MSS. in VDH., IV, iii, 186.

there was good reason to fear that the universities would lose many of the privileges in benefices which they were accustomed to receive from the Papacy. For this reason the bishops found themselves vigorously opposed and were forced to withdraw their petition. This difficulty in the adjustment of benefices also gave Sigismund an opportunity to demonstrate the extent of his disinterestedness in the course which the reform should take. Following the deposition of John he took over the administration of ecclesiastical affairs in Germany pretending that he was merely vindicating traditional rights which the Popes had usurped.[33] He at once appointed a number of bishops to vacant sees and, contrary to one of the most important measures of reform and in accord with what the Council had already condemned in John's regime, granted a number of expectancies to benefices.[34]

Opposition to the Mendicant Orders

At this time also, the hostility toward the Mendicant Orders on the part of the university delegates, always latent, flared up. On the plea of the poverty of ecclesiastics and people, the delegates of the University of Paris demanded that no new Mendicant Order should be sanctioned. There appears to have been no reason to bring such a request before the Council other than the animosity of the university delegates toward the Mendicants. The university delegates also requested that the privileges granted to the Mendicant Orders in the *Regnans in excelsis* of Alexander V be revoked and that certain propositions in their favor contained in that Bull be condemned by the Council.[35] The Mendicants through their representatives made an apology for the need of

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33 Persona, Gob., *Cosmodromium*, xciv, quoted in VDH., IV, iii, 299-300; Lenfant, *op. cit.*, I, ii, 300.

34 *Ibid.*

35 *Avisamente der Reformatorien*, Finke, *op. cit.*, II, pp. 689 ff.

such religious in the Church and pleaded that no action on either matter be taken until the Council could be more fully informed.[36]

Resignation of Gregory XII Is Pledged

The deposition and imprisonment of John XXIII removed one of the rivals from participation in the Council and affairs now turned to the other two. Gregory XII had repeatedly expressed his willingness to resign if he could be assured that such action on his part would make for peace and unity. To the great joy of the Council, therefore, word was received on May 13—while the deposition of John was under way, that Gregory had taken the decisive step of making Carlo Malatesta his irrevocable procurator and had empowered him, under certain conditions, to present his resignation to the Council.[37] The Council without dissent accepted Malatesta as procurator and on May 15 the conditions of Gregory's renunciation were read to the delegates.[38]

Conditions Demanded

The conditions demanded by Gregory are worth noting. He agreed to recognize the Council only insofar as its convocation came from Sigismund, maintaining, of course, that John XXIII had no power to do so. He insisted also that his own rights to the Papacy be recognized; and that he be permitted to convoke the Council anew and that his rival, Baldassare Cossa, be not allowed to preside there.[39] The conditions thus laid down, namely, that the Council should not recognize the convocation of John XXIII and should accept himself, one

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36 *Ibid.*, pp. 699 ff.

37 Cf. *Epistola Caroli Malatestis, scripta nationibus in Concilio congregatis*, in VDH., IV, iii, 177-178.

38 Bull of Gregory XII in VDH., IV, iii, 192-193; Fillastre, *Gesta C. C.*, Finke, *op, cit.*, II, pp. 45-46.

39 *Ibid;* cf. Lenfant, *op. cit.*, I, iii, 381.

of the Popes deposed by the Council of Pisa, and that he should be allowed to exercise the traditional prerogative of the Pope and officially convoke anew a Council that had been in session for six months, make it difficult to see how the Council could agree to such proposals and at the same time be consistent with its own principles.

Reasons for Granting the Conditions

The obvious explanation of this inconsistency is given by Cardinal Fillastre in his Diary of the Council, when he explains that the Council accepted these conditions of Gregory through necessity and because they feared that otherwise Malatesta would not admit Gregory's renunciation of the Papacy.[40] But such a motive, or any other that may be attributed to the Council, does not contradict the fact that in acceding to such requests the Council made concessions which denied practically all the Conciliar party professed. Lenfant observes that the new convocation was an incontestable fact supported by the acts of the Council and that the Gallicans (of his own day) could argue in vain that it was a mere confirmation. He further calls attention to the fact that the Fourteenth Session—at which time Gregory resigned—was not opened officially until the Council had been convoked in the name of Gregory.[41] In support of Lenfant's thesis it is worth noting also that in the Bull of convocation, that was then read by Cardinal John Dominici, it is the *agenda,* not the *acta* of the Council that are authorized.[42]

Resignation of Gregory

On July 4, 1415, at the Fourteenth Session of the Council, after having secured full recognition of his rights as Pope and formally authorizing the Coun-

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40 Finke, *op. cit.*, II, p. 46.
41 *Op. cit.*, I, iii, 382-383.
42 *Ibid.*, cf. also Bull of authorization in VDH., IV, v, 317.

cil, Gregory XII resigned from the Papacy.[43] With the resignation of Gregory, the Council took advantage of the present helpless plight of the Cardinals and at this session issued a decree reserving to itself the right of determining the time, place and mode of the election of the new Pope.[44] Notification was then sent to Gregory that his resignation had been accepted.[45]

Last Days of Gregory XII

How different was the last day of Gregory in the Papacy to that of his rival John. Through personal ambition the Pisan Pope brought the line which he represented to a miserable end and passed from the contest amid the scorn and contempt of all. The Roman Pope on the other hand carried the succession which he represented to a height it had never reached during the schism, and with the applause and good wishes of all departed from the Papacy. It is related by De Vrie that Gregory, on being notified that his resignation had been accepted, rose at once from his throne and removing all insignia of office, as though glad to be relieved of a burden too heavy for him to bear, declared that at last he was free.[46] Where John was imprisoned for the security of the Council, Gregory was made Cardinal Legate of the March of Ancona and his curial officers were received with all honor by the Council. From the moment of his resignation Gregory gave every evidence of good will toward the Council but did not live to see the restoration of unity in the Church, as he died on October 18, 1417.[47]

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43 Nieheim, *op. cit.*, Libri III, cap. i, in VDH., II, xv, 409-410; cf. VDH., IV, v, 375.

44 *Ibid.*, 375-376.

45 VDH., IV, v, 375.

46 *Historia Concilii Constantiensis,* Prosa Libri Vi, dist. x, in VDH., I, i, 165-170.

47 Vienna and Dorre MSS., in VDH., IV, xi, 1443-44, 1495.

Trial of John Hus

While negotiations were being carried on between the Council and Carlo Malatesta in regard to the resignation of Gregory, the Council was able to dispose of the more critical of the heresies that were to come up for examination at Constance. As already pointed out in connection with the struggle between Pope and Council, the writings of John Wycliffe had been condemned as a necessary preliminary to the trial of John Hus of Bohemia. The trial of Hus occupied the partial attention of the Council in conjunction with the efforts to dispose of the Papal claims of Gregory and John throughout the spring of 1415.[48] He was found guilty in thirty of the thirty-nine articles selected from his writings as heretical and was requested by the Council to repudiate and cease to teach the errors which they expressed. Hus asked for time to consider, which was granted.[49] As the Council awaited his answer, another Bohemian heresy, Utraquism, was also condemned (June 15, 1415).[50] This heresy, which denied the right of the Church to withhold the chalice from the laity, is associated with the name of Hus, largely due to the fact that his followers practiced it. As a matter of fact this teaching gained headway in Bohemia while Hus was in prison at Constance; but when he learned of it he gave it his encouragement and was pleased to know that his followers had adopted the practice.[51]

Death of Hus

On June 24 the writings of Hus were committed to the flames [52] and on July 6, after a futile effort had been

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48 Schaff, D. S., *John Huss*, pp. 195 ff.

49 VDH., IV, iii, 296.

50 Brunswick, Leipzig, Dorre, Gothenberg and Vienna MSS., in VDH., IV, iv, 33.

51 Lenfant, *op. cit.*, I, ii, 271.

52 *Ibid.*, I, ii, 380; cf. Brunswick, Leipzig, Gothenberg, Vienna, and Dorre MSS. for articles condemned, in VDH., IV, vi, 408 ff.

made to induce him to retract, he was condemned as a contumacious heretic.[53] The Bohemian heresiarch may have been to some extent the victim of personal hatred at Constance, yet, but for his stubborness, he might have foiled his enemies. He insisted that he was ready to retract his teachings if convinced of his errors from Holy Scripture; but was evidently too conceited in his own interpretation to appreciate the doctrine which his teaching opposed, and this despite the fact he was in opposition to the solid tradition of the Church and the best minds of his own age. After being degraded from his office as priest, Hus was turned over to the secular arm and led forth to death.[54] A last effort was made by Louis of Bavaria to induce him to recant. But Hus went to his painful death at the stake, stubborn to the end.[55] To prevent the Bohemians from securing any relics of their champion, his ashes were cast into the Rhine.[56] The Council, however, failed to extinguish the heresy which Hus had propagated; in fact it accomplished nothing more than to make the teachings of Hus, coupled with Utraquism, a national faith in Bohemia, and Hus himself a national hero. Before the Council adjourned there were uprisings in Bohemia, and for a generation or more that country remained an armed camp as the result of civil wars brought on by religious disputes. Leclercq,[57] in commenting upon the trial and execution of Hus, says that the Council seized the occasion of the heresy to gain some prestige before Christendom as the upholder

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53 Cf. VDH., IV, v, 342-344; Leipzig MS., *ibid.*, IV, vi, 385-387; *Acta Sessionis XV, De Hussi Rogo,* in VDH., IV, vi., 399 ff.

54 Cf. Description of last day by an unknown author in VDH., IV, vi, 445-448; De Vrie, *op. cit.*, Prosa Libri VI, dist., xi, in VDH., I, i, 169-172; Schaff, *op. cit.*, pp. 228-259 is the best account of the last days of Hus that we have in English. Cf. also Wylie, *op. cit.*, pp. 169-171. Ulrich von Reichenthal, an eye witness, also gives an account, in VDH., IV, vi, 448-450.

55 Lenfant, *op. cit.*, I, iii, 411.

56 De Vrie, *l. c.*

57 *Op. cit.*, vol. VII, p. 329, cf. footnote.

of orthodoxy in order to fortify themselves for the step they had taken in the deposition of John XXIII. At any rate the execution of Hus served as a manifesto to make evident to Christendom that the Reform party intended to uphold the traditional doctrine of the Church, and we need not doubt that they were eager to give such a signal demonstration of their zeal for orthodoxy.

The Case of Jean Petit

Another case, however, that came up for consideration at this time, namely, the condemnation of the doctrine of tyrannicide, did not add much to the prestige of the Council as the upholder of orthodoxy. Eight years previously (1407) the Duke of Orleans was murdered and his rival, the Duke of Burgundy, was suspected of being an accessory to the crime. To shield the suspected nobleman, Jean Petit, a doctor of the University of Paris, advanced the theory that it is lawful to kill a subject who is plotting against his sovereign. The first to raise his voice against this theory was John Gerson through whose influence the University and the Council of Paris condemned the proposition.[58] The Duke of Burgundy appeal to John XXIII who, before the assembling of the Council of Constance, appointed a commission to examine the matter.[59] The question of condemning the doctrine came up for consideration on June 7 and Gerson demanded that the Council condemn it.[60] But apparently through fear of the Duke of Burgundy, the Council refused to do any more than to give a general condemnation of tyrannicide.[61]

Appeals of D'Ailly and Gerson are Fruitless

Throughout the remainder of the Council both Gerson and D'Ailly continued to plead for more definite

58 Masson, *Jean Gerson, sa vie etc.*, pp. 260-261.
59 *Chartularium Universitatis Parisiensis*, iv, pp. 151, 280 ff.
60 Masson, *l. c.*
61 Cf. condemnation in VDH., IV, vi, 439-440.

action by the Council, but their entreaties were useless. The insistence of Gerson merely drew on himself the odium of the sympathizers of the Duke of Burgundy. To discredit him the Bishop of Arras attempted to show that Gerson himself had fallen into heresy in his counter-propositions against Jean Petit.[62] Gerson, however, triumphantly overthrew this charge by showing that the Burgundians had used the puerile expedient of trying to trap him by transferring certain texts in his writings from their proper place in the context.[63] D'Ailly was very bitter in his denunciation of the Council, accusing the delegates of adopting their vacillating policy through fear of the Duke of Burgundy.[64] Sigismund, it appears, tried to have the whole matter quashed, as he was under treaty obligations to the Duke.[65] Where the Council did not hesitate to condemn the defenceless Hus to death, it now dared not condemn an atrocious crime for fear of offending a powerful nobleman.[66] In this matter the Council failed in its obvious duty and as a result of this neglect, as Emerton [67] in his recent work has pointed out, "The question was thus taken out of the spheres of both moral and juristic authority, and brought within the field of political conflict." With all its pretensions of power, as Milman [68] has said "the Council of Constance to its close hesitated to pass the censure demanded and uttered by the shuddering abhorrence of mankind."

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62 Lenfant, *op. cit.*, I, iv, 459-460.

63 *Ibid.*

64 VDH., IV, x, 1191-1194.

65 "Item fuit lecta littera [June 3, 1416] serenissimi d. regis Romanorum in qua exhortabatur sacrum concilium, quod revocaret sententiam latam in materia novem asserciones magistri Johannis Parvi." Cerretanus, *Liber Gestorum C. C.*, in Finke, *op. cit.*, II, 298. Cerretanus also states that there was a rumor that Sigismund and the Duke of Burgundy were confederates. *Op. cit.*, II, p. 235.

66 Van der Hardt quotes from the *Dialogus Apologeticus* of Gerson: "Fuit apud aliquos impudentissima personarum acceptatio, dum eadem fidei causa isti damnati sunt, alii pertransiti" VDH., IV, vi, 451.

67 *Humanism and Tyranny*, p. 68.

68 *History of Latin Christianity*, vol. VII, book, xiii, p. 507.

The Conditions of Benedict XIII

The imprisonment of John and the resignation of Gregory had removed two of the rivals for the Papacy; the third, Benedict XIII, not so compliant, had laid down conditions which even at this distance were of such a nature that they could never be accepted by the Council. He demanded that the decrees of the Council of Pisa be annulled and that a guarantee be given that, following his resignation from the Papacy, a canonical election should be held "in a safe place" in which he would be one of the electors.[69] As two of the rivals had already been eliminated a practical way of bringing the work of the Council in the matter of Church unity to a close was to induce the aged Spaniard to resign. If consistent with its own principles and pretensions, the Council might have at once issued the formal citations for Benedict to appear at Constance, and upon his refusal to comply, they could, as in the case of John XXIII, proceed at once to depose him. But Benedict was not at Constance where he could be intimidated—if that were possible in his case, but was safely secured at Peniscola where he openly defied the Council. Furthermore, Benedict was under the protection of Ferdinand I of Aragon and his cause was sponsored by the great Dominican preacher, Saint Vincent Ferrer. In dealing, therefore, with this sturdy old veteran it was necessary for the Council to employ its most potent diplomatic weapon against him and to convince both the King of Aragon and Vincent Ferrer that the claimant whom they were supporting was alone preventing a restoration of unity to the Church. The importance of securing the resignation of Benedict as well as the Council's realization of the delicacy of the situation may be seen from the fact that Sigismund himself was the emissary chosen by the Council for the mission. Nor was Sigismund at all averse

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69 Vienna MS. Parte II, *Act, C. C.*, f. 126, in VDH., II, xviii, 486-491.

to accepting the charge, for, in addition to the prestige he would receive in the event that he was successful in his quest, he hoped likewise that on his journey to Spain by way of France, he might be able to induce the French king to make peace with England. Such a peace meant much for Sigismund since he hoped to have the assistance of both of these powers against the Turks who were devastating Hungary. The inability of the Emperor to hold off the Turks in that land had caused some of his subjects to waver in their loyalty to him.[70]

Sigismund Leaves for Spain

On July 21, after arranging that the Council should deliberate on the reform measure but should take no decisive action nor interfere in Hungarian affairs until his return, and leaving Louis of Bavaria as Protector of the Council in his own absence, Sigismund set out on his mission to Spain.[71] On this occasion, John Gerson, who preached the departure sermon, reaffirmed the principles of Conciliar authority that he had enunciated on the occasion of the flight of John XXIII from Constance.[72]

Delay of Sigismund

The desire of securing peace between England and France appeared more pressing to Sigismund than the immediate work of the Council. While en route to Spain he paused in France to attempt peace negotiations with the French king, but had no success. The business in France, however, so delayed him that the Council growing weary of inaction sent the Archbishop of Riga after him to urge that he proceed at once to Spain.[73] It was not until October 2nd, therefore, that the Council

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70 VDH., IV, viii, 493.

71 See the instructions in Cerretanus, *Liber Gestorum C. C.*, Finke, *op. cit.*, II, pp. 268-287, VDH., IV, viii, 482.

72 Helmstadt MS. in VDH., II, xvii, 470-484.

73 VDH., IV, vii, 494 (paged incorrectly as 493).

was notified that Sigismund had reached Perpignan and had begun negotiations with the King of Aragon and Benedict XIII.[74]

Negotiations with Spain

Despite his repeated assertions that he would surrender all claims to the Papacy should such action on his part tend to Church unity, Benedict by his obstinacy for a time halted the negotiations. It was now apparent, however, in the face of the elimination of the other claimants, that the Avignon Pope was more deeply concerned with upholding his own questionable claims to the Papacy than with the restoration of unity to the Church. Saint Vincent Ferrer, now disillusioned and finding it impossible to persuade Benedict to resign, abandoned his cause.[75] Ferdinand of Aragon died during the negotiations, but his successor, Alphonso, was able to reach an agreement with Sigismund.[76] On December 13, 1415, at Narbonne, a treaty was signed by which Spain agreed to withdraw its obedience from Benedict and to send delegates to the Council.[77] As a result of this treaty Benedict XIII was left practically with no following, but that condition in no way weakened his determination to retain his claims.

Sigismund in England

Sigismund, though discouraged by his efforts in France was still unwilling to surrender the hope that he might be the peacemaker in the long struggle between that country and England. Instead, then, of returning to

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74 *Ibid.*, IV, viii, 532.

75 Lenfant, *op. cit.*, I, iv, 526; Cf. Vienna MSS. Parte II, *Act. C. C.*, *f.* 124 and Helmstadt, Brunswick and Leipzig, MSS., in VDH., II, xviii, 554 ff.

76 *Ibid.*

77 Cf. Capitula of Narbonne, Vienna MS. Parte II, *Act., C. C.*, f. 131 et Parte IV, f. 99, also Brunswick, Leipzig and Gothenberg MSS. in VDH., II, xviii, 540 ff.

Constance he sailed for England. There, also, his peace efforts were fruitless and further misfortune attended him when at Canterbury he made a treaty with Henry V of England, by which he agreed to aid that prince in the recovery of English possessions in France.[78] This move on the part of Sigismund marked the beginning of the downward trend of his influence at Constance with the resultant failure of his most cherished hopes. The journey itself must have cast from his mind any doubt of the passing of the imperial power as a factor in European life, for in both France and England he was treated, not as the ruler of the Empire, but as another national sovereign. In France, his attempt to act the part of Emperor, ruined what slight chance he might have had to make terms with the French king.[79]

Inactivity at Constance

In the meantime at Constance, the delegates were impatiently awaiting the return of the Emperor.[80] In compliance with his request no effort was made to enact reform measures during his absence. His other request, namely, that the Council should have all matters of the reform program ready for enactment when he returned, was not carried out.

The Reformatory College Futile

On July 24 three days after the departure of Sigismund, Cardinal Zabarella addressed the Council on the matter of union and reform. He made a strong plea on behalf of the Cardinals, pointing out that although they

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78 Lenfant, *op. cit.*, II, vi, 10-20.

79 According to Lenfant, he had of his own accord, knighted a subject of the King of France, before the *Parlement*. *Op. cit.*, I, iv, 529-530.

80 "Quidem namque latenter inter se ruminant ipsum esse captum, neque libertati reddendum. Alli mortuum ferunt. Caeteri maximis subjectum periculis eloquntur. Inter haec veneno non nulli sibilant eundem decumbere et pristinae non posse restitui sanitati" De Vrie, *op. cit.*, Prosa Libri VII, dist., vii, in VDH., I, i, 190.

were next to the Pope in rank, it was their purpose at Constance to become the least of all in order to aid the reform. He begged the delegates to act in a more fraternal manner toward the Cardinals in order that the purposes of the Council might be more happily consummated.[81] Unfortunately the commission of reform—which consisted of three Cardinals and eight deputies from each nation—had been chosen with a view to insure the inclusion of the four nations.[82] In other circumstances such an arrangement might be highly desirable since it would afford an opportunity for each nation to present its grievances and to call attention to particular local abuses. But the Council of Constance was in no need of such information, for the abuses already noted at the Council of Pisa and still unchecked needed no commission to make them known. In this instance the commission was so severely handicapped by the jealousies and national antipathies of its members that it failed to accomplish its task before the return of Sigismund. Theodore de Vrie declares in his history, that the discord between the Cardinals and the nations hindered the reform legislation, and remarks that the very ones upon whom lay the burden of reform were divided by jealousy in a way that appeared to be guided by diabolical instinct.[83]

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81 Cerretanus, *Liber Gestorum C. C.*, Finke, *op. cit.*, II, pp. 253-255.

82 The Cardinals on the commission were D'Ailly, Giordano Orsini, and Antoine. Lenfant has given the opinion that the commission was seriously handicapped by the fact that it contained members who were also on the commission on matters of faith. *Op. cit.*, II, vii, pp. 305-306. Undoubtedly this fact did occasion some delay since not all were agreed as to whether the reform or the examination of doctrinal matters should have precedence. The real cause for delay however can hardly be attributed to that.

83 "Hic verissime in congregatione Constansiensi cognoscitur guerras et rixas concitare, ne inter se concordare valeant, ad quos sanctae reformationis onus et opus spectare videtur. Sunt enim alterius contra alterum clamores, jurgia, contumeliae, et hujusmodi, quae sine diabolico instinctu esse nequaquam possent . . . *Op. cit.*, in VDH., I, i, 193-194.

Lack of Zeal Is Evident

It would appear that the lack of some central or directing power had a lowering effect on the Council. As organized, the Council was powerless to act as a means for giving expression to the will of the delegates who composed it, since the Council itself was nothing more than a body whose only purpose was to ratify what had been agreed upon by the deputies of the nations.[84] Reform of the Church was one of the most widely proclaimed purposes for which the Council was summoned, yet this zeal for reform seems to have cooled under the spirit of petty jealousy and selfishness that apparently seized the members on their arrival at Constance. This was so marked that a sermon on August 11, 1415, within a month after the departure of Sigismund, called attention to the way the ardor of not a few of the agitators for reform had cooled to indifference.[85] On December 19, John of Nassau, the President of the German nation, in a memorandum, reviewed the three-fold purpose of the Council and complained bitterly on behalf of the Germans that their pleas for the Council to take action in the matter of simony and extortion had gone unheeded.[86] The French delegates likewise complained of the dilatory tactics of the Council in the matter of the *annates*, and declared that they were instructed from France to urge action in this matter and must, therefore, render an account to their country should the Council neglect to take immediate action.[87] The French at the time filed a protest against the method of voting at Constance.[88]

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84 Cf. note 62 chap. II.
85 *Sermones Concilii Constanciensis*, Finke, *op. cit.*, II, pp. 414-416.
86 Brunswick and Gothenberg MSS., in VDH., IV, viii, 556-557.
87 Brunswick MS., in VDH., I xiii, 761 ff.
88 *Ibid., col.* 785.

Nationalist Antipathies

Here were two nations representing opposite factions and, although both were desirous of certain reforms, they could not agree to submerge their national differences in order to construct a practical and tenable reform program. The handicap which these national antipathies proved to the reform program is strikingly evident from a sermon which was delivered on February 23, 1416. The speaker pleaded for peace among the nations and the allaying of national differences, for their meetings, he said, had become scenes of turmoil and contentions, and featured by the petty jealousies of the members. Neither did he spare the Cardinals from censure nor did he absolve them from blame in hindering the reform. He castigated the venality of the curia and rebuked the Cardinals for the manner in which they had impugned the Papacy which they should defend.[89]

Reform Program Not Ready

These struggles within the Council made it practically impossible to construct a definite reform program before the return of Sigismund. Indeed, it may be said that except for the trial and condemnation of Jerome of Prague, a follower of John Hus, the Council accomplished nothing during this period that is worthy of note. In the case of Jerome, the Council was at first successful in inducing him to abjure the heresy of Hus;[90] but later he revoked the abjuration.[91] On May 30, 1416, he met the same fate as his master had suffered during the previous year.[92]

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89 *Sermones Concilii Constanciensis*, Finke, *op. cit., vol.* II, pp. 430-435. The author of this sermon is unknown.

90 De Vrie, *op. cit.*, Prosa Libri VI, dist., xii, in VDH., I, i, 171-172.

91 Cf. disavowal in Lenfant, *op. cit.*, I, iv, 559.

92 Brunswick, Leipzig and Gothenberg MSS. in VDH., IV, viii, 764 ff. An unknown author gives an account of his death in VDH., IV, viii, 770-772.

Dissatisfaction Is Shown With the Method of Voting

The lack of unified action in the Council forced many to realize that the division of the Council into nations was not the panacea that its advocates had suggested. There was now a growing dissatisfaction with this method of procedure, for the Cardinals and bishops were naturally indignant that their presence in the Sessions of the Council was merely to ratify what had been decided by the nations. Some of them pointed out that many things were enacted, carried through, and adopted at the public sessions before they had any opportunity to examine them.[93] At times, moreover, they were not notified of the proposed session. On September 4, 1416, for example, the Cardinals arrived at the Cathedral after the session had begun. In apologizing for their late entrance, Cardinal Zabarella declared that they had received no notice of the session nor had they seen the schedule for the session. He insisted that the Cardinals were ready to co-operate with the nations in anything reasonable if given an opportunity to do so.[94]

Restoration of the Cardinals in the Council

The Cardinals were as a matter of fact coming back into power in the Council for they were a unit and could take advantage of the fact that the nations were dis-

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93 "Omnia pene gesta in hoc sacro concilio sunt et concordata per naciones et demum decreta in sessione, que omnino per hanc viam anichillarentur. Sane tot littere totque gesta sunt et expedita in nacionibus, de quibis numquam fuit verbum in sessione publica" Cf. *Der Literarische Kampf um die Stellung des Papstes zum Konzil*, in Finke, *op. cit.*, II, p. 741. The foregoing statement is part of the response by the Dominican General (Leonard Statius) to an objection made that the Council had set aside the protest of some of the clergy of Lyons against the Archbishop appointed by Benedict XIII merely through a session of the nations. His argument is that such a procedure was sufficient for validity. It is part of the conclusions of his sermons of October 4, 1416, and January 1, 1417. Cf. Finke, *op. cit.*, II, pp. 468, 480-481.

94 Brunswick, Leipzig and Gothenberg MSS., in VDH., IV, ix, 823-828.

trustful and jealous of one another. But despite the earlier lesson that was given when they found themselves discredited, following the disgrace of John XXIII, they were not unwilling to try once more to lessen the Papal power. Then too the difficulties that were manifest in the Council as a result of the assault on the Papal power, and their own manifest inability to deal with the crisis that from time to time arose in the Council, did not prevent the leaders of the Conciliar party from continuing to theorize on the rights of the Council.

D'Ailly on Papal Power

On October 1, 1416, the leader of the party, Cardinal D'Ailly, read a treatise in which he discussed at length the question of Papal and Conciliar power. Though he declared that it would be heretical to deny that the Pope is the Head of the Church universal, he insisted on the other hand that the plenitude of power does not reside in the Pope, but in the Church universal itself and in the General Council. He further maintained that inerrancy which belonged to it could not be extended to the Pope. To demonstrate the power of the Council over the Pope he appealed to the fact that the Council of Pisa had condemned and deposed two Popes, one of whom must have been legitimate.[95] This last argument must have appealed to some of his listeners, but it was hardly consistent with the usually logical mind of the brilliant churchman. What appeared to be a beginning in reform legislation was made on October 8, when the reformatory commission presented a number of resolutions to the Council. For the most part these *avisamenta*, as they are

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95 Cf. *Tractatus de Ecclesiastica Potestate.* Vienna (Caes) MS., Parte IV, Act. C. C., f. 211 and Helmstadt MS. in VDH., VI, i, 15 ff. cf. col. 63.

called, were nothing more than an attempt to limit certain rights of the Papacy.[96]

New Arrivals at Constance

The difficulties which embarrased the Council because of these ambitions and the antipathies of the nations were increased by the arrival of a number of delegates for whom no provision in the matter of voting had been made when the Council divided its membership into four nations. In consequence of the Treaty of Narbonne, a number of delegates from the Spanish Peninsula and from Naples had arrived at Constance and their coming necessitated a readjustment of the division of the Council into nations. The new comers had not been given much consideration at the time the voting plan had been accepted and although their presence added prestige to the Council, in that the whole of Western Europe was now represented, their arrival was also the occasion for a considerable disturbance. It might have appeared a simple matter to admit all these delegates as a fifth nation, but the personnel of the new delegation hardly permitted such a ready settlement of the problem. A keen rivalry existed among the principalities of Aragon, Castile, Navarre, Portugal and Naples, so that before this could be done the Council would have to settle the question as to which of these countries should assume the leadership in the group. It should be remembered that it was not merely a question of an honorary position that was at stake, for the politi-

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96 These *avisamenta* are contained in the *Geminum Protocolum* of VDH. which is a combination of the Elstrawe and Dorre manuscripts. The two MSS. were so alike that Van der Hardt gives one, with diversities in the footnotes and margins. VDH., I, x, 583-644. A third MS. is a summary of the decrees of the reformatory commission, Vienna (Caes.) MS. VDH., *ibid.*, 650-662, and a fourth is the *Avisamenta secundum aliquas Decretalium rubricas pro Reformatione congrua facienda*, from the Vienna (Caes.) MS. in VDH., ibid., 670-754. cf. Mansi, *op. cit.*, coll. 265 ff. For information relative to these manuscripts cf. Lenfant, *op. cit.*, II, vii, 309-310.

cal prestige attached to the Council of Constance made the matter of leadership in the national groups of supreme importance. When the delegates of Aragon were joined to the Council, October 15, 1416, they were accepted as a nation[97] with the obvious inference, it would seem, that they were to have the leadership in the new group. At any rate this action brought an immediate protest from the delegates of Portugal, who declared that such preference gave offence not only to their own king, but also to the princes of Navarre and Castile.[98] The Council was compelled, therefore, for the sake of peace to take the matter over for further consideration.[99]

Appeal of D'Ailly for the Reform

While these new troubles were being attended to, what might be looked upon as an attempt by the Cardinals to take the reform issue into their own hands was launched by D'Ailly at the Twenty-third Session, November 1. The program of reform which he presented on this occasion in many ways anticipated the reformatory decrees of the Council of Trent.[100] In urging these reforms he predicted clearly the terrible result that the present neglect of the Council might cause and took occasion to utter a warning that unless the reform were quickly accomplished, Christendom must be prepared to witness even more horrible conditions.[101] At this

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97 Dorre MS. in VDH., IV, ix, 910 ff. Leipzig MS. *ibid.*, IV, ix, 934-939. According to Fillastre only one delegate of the King of Portugal had received tonsure. *Op. cit.*, Finke, II, 137.

98 Brunswick and Leipzig MSS. in VDH., IV, ix, 912 ff.

99 *Ibid.*

100 Vienna (Caes) MS. in VDH., I, viii, 409 ff.

101 *Ibid.*, 410. These words of the Cardinal had little effect on the Council. Within six weeks of his warning (December 14) the Council gave the vacant see of Olmütz in Bohemia *in commendam*, to the Bishop of Leitomysl, until three months after the election of the new Pope. Thus one of the most important items of reform was openly violated by the Council itself. Brunswick and Leipzig MSS. in VDH., IV, ix, 1013-1014.

same session D'Ailly also attacked the plan of voting by nations. He insisted (and rightly) that such a division was more secular than ecclesiastical and productive of divisions and contentions in Council. He suggested that the proper division would be made if the delegates were partitioned according to ecclesiastical provinces with provision made for the representation of the secular powers.[102] He failed apparently to grasp the real difficulty which was the insistence by the advocates of this method that there must be representation of places and person rather than office. Little consideration was given either to D'Ailly's suggestions of reform or his attack on the method of voting. The possibility that the factional disputes in the Council might be reduced to a minimum through a return to the traditional method of voting seems not to have suggested itself to very many of the delegates. Rather than admit that a mistake had been made in the first place when the vote by nations was adopted, the Council preferred to compromise when difficulties arose. Such compromises usually effected a temporary settlement but the recurrence of the same difficulties paralyzed the legislative activity of the Council.

Opportunity Neglected by the Council

The continued absence of Sigismund afforded the delegates plenty of time in which to draw up their reform program, and gave them an opportunity to discuss the case of Benedict XIII and be ready for action in this matter likewise when the Emperor returned. Except for the appointment of a commission of information on November 5, 1416,[103] to investigate his claims and to furnish the desired data for action, the Council did nothing

102 *L. c.* I, viii, 431.

103 Brunswick, Leipzig, and Gothenberg MSS. in VDH., IV, ix, 961-968.

to restore Church unity but mark time until the return of Sigismund.

Difficulties with Nations

On the same day that this commission of information was appointed the trouble in the matter of voting was renewed. The Council had sought to satisfy the Spanish delegates by admitting them corporately as a fifth nation with no preference given to any of the group. At an informal meeting which took place before the delegates assembled for the session, D'Ailly and the delegates of the French king proposed that a protest be lodged against allowing the English to retain their vote, since there was no relative comparison between the number of ecclesiastics representing England and those of other countries which had the vote. When the English heard of this proposal they came with some German delegates to the Cardinals and threatened not to attend the session unless the proposal were withdrawn. As all were anxious to hold this session in order to have the commission of information appointed, D'Ailly agreed not to make mention of it. In the session, however, the delegates of Aragon lodged a protest against the preference that was shown England at their expense.[104] Though this "preference" was actually nothing more than the seating of the English delegates before those of Aragon in the Council chamber, the Aragonese made an issue of it and protested against the right of the English to hold the place of a nation in the Council at all. They maintained also that other delegates besides themselves held the same view. As the Council gave its *placet* to this protest the English withdrew from the Council chamber.[105] That evening one hundred and twenty of their

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104 Fillastre, *Gesta C. C.*, Finke, *op. cit.*, II, p. 78-79.

105 *Ibid.* For protest of Aragonese, cf. Brunswick and Leipzig MSS. in VDH., IV, ix, 965-968.

followers armed themselves, and it was rumored that they were to avenge the insult offered them in the session. Since the English believed that D'Ailly was the instigator of the protest of the Aragonese, there was some concern for his safety. For this reason the other Cardinals asked Louis of Bavaria to exercise his authority as temporary Protector of the Council in his behalf. The English, however, assured the Protector that they had no intention of harming D'Ailly; but at the same time they warned both him and the other French delegates to beware.[106]

National Animosity

The quarrel over the matter of voting between the Spaniards and the English, which served to bring out the mutual animosity of France and England reached its climax on the evening of December 23. The joint meeting of the deputies of the nations was carried far into the night and, as Dacher testifies, the discussion grew so violent that it became necessary for Louis of Bavaria and Frederick of Nuremberg, and the consuls of the city to enter the meeting in order to restore peace. To quiet the deputies Louis promised that on the morrow the matter would be definitely settled by the Council to the satisfaction of all.[107] On the following day, therefore, it was decided that no nation should hold any pre-eminence in rank either in discussions or in regard to their position in the Council chamber.[108]

Change in the Leadership of the Council

The admission of Spain to a vote in the Council as a fifth nation materially changed the leadership in the Council. Sigismund's party (the English and German

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106 Fillastre, *Gesta C. C., l. c.*

107 Dacher, in VDH., IV, ix, 1025-1026.

108 Brunswick and Leipzig MSS., *ibid.*, 1027-1030.

delegates) held a dominating influence in the early stages of the Council because of the advantage that the accepted method of voting had given them. His party, however, as we have seen, blundered seriously when they refused to give the Cardinals any consideration in the matter of voting. As will be recalled, the request of the Cardinals for the right to vote as a unit on an equal basis with the nations was refused and they were told to join themselves to their respective nations.[109] The presence of the Cardinals among the Italian and French served to make these two nations the uncompromising opponents of Sigismund. Despite this opposition Sigismund was able, before his journey to Spain, at least to balance the power of his opponents by the two votes of his own party; but the entrance of the Spanish delegates, because of their sympathy with France, gave three votes to the opposition.

New Position of Sigismund

As a result of this change Sigismund found, on his return to Constance January 19, 1417, that much of his leadership and influence in the Council had gone. The division into nations which he himself had sponsored had its effect on the national aspirations of the delegates and naturally the parties at the Council followed the lines of the diplomatic relations of their countries. It must not be forgotten that the Council took place during the Hundred Years War and that on August 14, 1415, Henry V of England had arrived on the shores of France and within two months had captured Harfleur and decisively defeated the French at Agincourt. It was probably the latter victory which induced the astute Sigismund to conclude the offensive and defensive treaty with Henry V,[110] which secured to him as an ally one of the

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109 *Vide supra*, p. 81.

110 Lenfant, *op. cit.*, I, iv, 529-530; Stubbs, W., *Constitutional History of England*, vol. III, pp. 88-89.

most powerful princes in Europe and linked up the Germans and English more securely in the Council. But on the other hand, it also stirred the resentment of the French delegates to such a pitch that Sigismund's influence began to wane.

New French Proposal for Voting

An opportunity of giving practical expression to this sentiment was presented in March, 1417, when the question of voting was again brought up for discussion. Though Spain had been recognized as a fifth nation and despite the fact that their known sympathy with the purposes of the Franco-Italian group insured the latter a majority vote in the assembly of the nations, the French were not loath to secure an even more decisive advantage for themselves and at the same time to strike a death blow at Sigismund's hopes. A precedent had been established for the division of Europe in 1336 by Benedict XII through the Bull, *Vas electionis.* The Pope on this occasion had partitioned Europe into thirty-six divisions in order to provide chapters and provinces for the Black Monks of Saint Benedict. These divisions were then assembled into four major groups, one of which included England and Germany, while the other three fell to France, Italy and Spain.[111] It can be readily seen that were the Council of Constance to substitute this grouping for the arrangement in vogue before the entrance of Spain into the Council, the nations which formed what might be called the south-western group would hold a three-to-one advantage on every question. The French, quick to see this advantage, requested the Council to unite the German and English nations under a single vote and to admit Spain in place of England as fourth nation.

Aside from an appeal to the *Vas electionis,* the French party in its declaration also pointed out that it

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111 Mansi, *op. cit.,* XXVII, col. 1023; Leipzig MS., in VDH., V, iii, 58.

was hardly fair to allow England the right to a vote since the English delegates represented but one-thirtieth of the membership of the Council. Then they insisted that, if the Council were to permit England to retain the vote, it was only just to allow all other countries that had a number of delegates equal to England to have a vote also. The French party further demanded that if the Council would not accept either of the alternatives presented, namely, either to unite the English and German nations into a unit, or to give all countries the right of voting, then this method of voting should be discarded entirely.[112]

Apology of the English Delegates

The English delegates, needless to say, lodged a vigorous protest against the demand of their French opponents. In their apology, the English delegates, styling themselves the "Ambassadors of the King of England and France,"[113] maintained in the first place that the *Vas electionis* was not designed to partition Europe into nations. In answer to the claim of their opponents that they represented but one-thirtieth of the Council no disclaimer was offered; but they insisted that in the number of people which they represented, they were at least equal to France. As to the demand of the French party, that the Council discontinue the method of voting by nations should the alternative presented be not accepted, the English delegates made the startling claim that such a method was now a *permanent arrangement for all fu-*

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112 Cf. Protest of French delegates in Wingfield MS. VDH., V, iii, 57-75.

113 As at that very time England and France were in the midst of the "Hundred Years War," with the major question being the right of the English king to sovereignty in the realm of France, we can imagine that the use of this title on such an occasion was an affront to the French delegates. Cf. English apology in Leipzig MS., in VDH., V, iii, 76-101.

ture Councils.[114] To turn back the argument advanced by the French in regard to an equable division in the Council, they declared that such would be best accomplished by uniting France with Spain and leaving the four nations in *statu quo*. It is interesting to recall that on this occasion the English delegates proudly boasted of their loyalty to the See of Peter. In making the boast, it was, of course, necessary that they should for the moment forget certain parliamentary enactments of the Fourteenth Century,[115] yet they could maintain that England had never withdrawn from the obedience of the Roman Pontiff. It appeared, too, like a rebuke to the French, who had supported Clement VII in the early days of the schism, when the English delegates reminded them that England had never rent the seamless robe of Christ by schism, nor attempted to mock the obedience of the Roman Pontiff.[116]

The Crux of the Discussion

It may be noted here that for the most part the discussion between the English and the French turned largely on the number of people their delegates represented rather than upon the intrinsic right or individual bishops to express the prerogatives of their office. In

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114 The English were to find out quite definitely at the Council of Basel that it was not. There they found a Council made up for the most part of French and German ecclesiastics, and although there were but few English delegates the vote by nations was discarded.

115 Beginning with the *Statute of Provisors* in 1351 there is what might be termed an anti-papal trend in the enactments of the English Parliaments. The first statute of *Praemunire,* in 1353 was designed to prevent appeals from going beyond the king's court, and this was further strengthened by the enactment of 1365 which aimed definitely at withdrawing all jurisdiction in England from the Papal court, and the repudiation of the Papal claims of tribute. For a time even *Peter's Pence* was withheld. Cf. Stubbs, *op. cit.,* vol. II, pp. 430-435.

116 "Regnum insuper Angliae, laudetur altissimus, ab obedientia Romanae Ecclesiae nunquam discessit, nec tunicam Domini inconsutilem scindere, nec unquam Rom. Pontificis obedientiam illudere conatum est." Wingfield MS. in VDH., V, iii, 91.

spite of all the discussion the Council stood by its previous decision, allowing the four nations to remain as constituted at the beginning of the Council and admitting Spain as a fifth.

The Five Nations

This adjustment could not, of course, take into consideration the question of the leadership in the Spanish nation. That question remained a cause of contention in the Council almost to its close. The stubborn attempts of the delegates of Castile to wrest the leadership from Aragon repeatedly delayed the legislative action of the Council. One effect of the final adjustment of the vote by nations dealt a blow to Sigismund. The new arrangement left the southwestern group with a three-to-two advantage over his own party and this factor forced him to recede from his earlier position of power. His arrogance toward the French in the early stages of the Council and the treaty which he had concluded with England made the French party in the Council strongly antagonistic toward him. The fact that they with the Cardinals were now becoming the dominant power in the Council, meant the ending of his most cherished ambitions.

CHAPTER IV.

GROWTH OF FACTIONALISM

Distrust in the Council

Since the Council had disposed of the claims of two rivals, John XXIII and Gregory XII, it appeared that the next step logically would be to examine the claims of the third, Benedict XIII, and pass judgment upon them. Although a commission on information had been appointed on November 5, 1416, to prepare all data for this examination, the Council was unable to pass judgment on the claims of the Avignon Pope until eight months later. This long delay was by no means due to any defense that was offered in his behalf, but to the mutual distrust and antipathy that existed between the rival parties in the Council. Though the Council had now been in session for more than two years, no effective measure of reform had as yet been enacted, and added to this, was the desire of many of the delegates, especially those of the south-western group, to postpone the question of the settlement of Benedict's claims until after the election of a new Pope. That such a startling suggestion should be made, the legality of which might well be questioned since the Council itself had not yet settled the validity of Benedict's claims to the Papacy, indicates clearly the intense bitterness and distrust that now ruled the Council. The delegates, especially the Cardinals, who desired to have the election precede all other matters now before the Council, professed to suspect that Sigismund

had formed a plan to have a Pope of his own choice elected. This was to be effected, according to rumor, by the acclamation of the Council immediately following the deposition of Benedict. It was said also that Sigismund, Bishop Hallam of Salisbury, and the Patriarch of Antioch had carefully laid plans for such an event and that a number of ecclesiastics had already agreed to lend their voices on behalf of their candidate.[1]

Desires of Sigismund

Sigismund, on the other hand, had reason to distrust those who were anxious to have the election take place at once. He was mindful of the fact that the Council of Pisa had deferred action on the reformatory measures until after the election, and then failed to take any action other than to postpone the reform legislation until the next Council. He also must have foreseen the possibility of a continuation of the schism, were the Council to elect a new Pope and then neglect to depose Benedict. He may have feared likewise that were the election to take place before the deposition of Benedict, the Spanish delegates might dominate the election, since they could threaten to return to the obedience of Benedict, the one claimant who at this stage had not surrendered his rights nor had the Council set them aside.

His Chief Opponents

Naturally as this new issue arose Sigismund was opposed by the French and the Italian delegates. Their opposition nettled him considerably and on one occasion, according to Cardinal Fillastre,[2] he made a threatening gesture by declaring that other schisms had been settled by the sword and that in the present instance he

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1 Fillastre, *Gesta C. C.*, Finke, H., *Acta Concilii Constanciensis*, vol. II, p. 104

2 *Ibid.*, p. 103.

would act as he saw fit. But with all this blustering, Sigismund dared not force the issue. He realized that the French king, because of the bitter feeling aroused over the treaty between Sigismund and England, might gladly seize any excuse to withdraw the French delegates from the Council. In such a crisis he knew too well that the Italian and Spanish delegates would likely follow the example of the French. A new schism was then sure to ensue for these three nations would naturally refuse to recognize the Pope whom the Council might later elect. The early breach between Sigismund and the French delegates was unfortunate for the peace of the Council; his treaty with the English king destroyed whatever hope he had of exploiting the Council in his own interest.

The Sermon of D'Ailly

Discussion on the method of procedure continued throughout the early spring of 1417, but the only result of these discussions was the paralyzing of the legislative activity of the Council. On May 30 (the Feast of Pentecost) an opportunity was given, however, to the opponents of Sigismund to plead their cause. In the sermon of the day, Cardinal D'Ailly took advantage of the occasion to urge the Council to give precedence to the election. To give a more definite tone to this request, he suggested also that the Council should accept the bicameral method of voting at the election of the new Pope. This method, as sketched by D'Ailly in his sermon, advocated two distinct electoral bodies, namely, the College of Cardinals and an electoral college which would be chosen from the delegates and contain a number of electors equal to the number of Cardinals. To guarantee that the successful candidate should be acceptable to all at the Council, the plan provided further that the election should not be terminated until one can-

didate had received a two-thirds majority in each electoral body.[3]

Menacing Gestures of Sigismund

Needless to say, Sigismund was displeased with this move on the part of D'Ailly. Not only had the Cardinal openly opposed his own scheme for the immediate deposition of Benedict, but he had also presumed to suggest a plan for the election which would not only appeal to the Council, since it pointed to a satisfactory solution of a difficulty already foreseen, but if accepted would also practically eliminate the Emperor as a factor in the election. In the face of the opposition of the southwestern group, of which the sermon of D'Ailly was a true expression, Sigismund appears to have lost all restraint and judgment. A few days after the sermon of D'Ailly, he committed a grave error of judgment when he attempted to interfere in the affairs of the Italian nation. In accord with the custom prescribed by the Council which required that the nations elect their presidents for monthly terms, the Italian delegates met on June 4 for this purpose. Sigismund on this occasion demanded that they choose as president the Archbishop of Milan, one of his own counsellors; but the Italians, angered by this unwarranted interference chose another. To show their resentment further, they refused to attend the session on that same day, when, as they knew, Sigismund intended to have definite action taken in the case of Benedict. That evening, Sigismund realized his mistake and withdrew his candidate. The Italians, satisfied with the victory, also withdrew theirs and, to save the dignity of the Emperor, agreed that a new election for the office of president should be held. This exchange of courtesies restored peace between Sigismund and the

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[3] VDH., IV, x, 1329-1330; cf. Vienna MS., *ibid.*, II, xx, 586-587.

Italian nation,[4] but the struggle over the matter of Benedict's deposition continued.

Conciliatory Measures Are not Offered

The contention of Sigismund, that the claims of Benedict should be disposed of before any consideration should be given to the holding of a new Papal election, was after all the only reasonable schedule for the Council to follow. That such a plan was not adopted as the rift between England and France in regard to the matter of voting had been settled, was due more than anything else to the stubbornness of Sigismund himself. Despite the feeling of distrust between his party and the south-western group, a little concession on his part as well as a pledge that he himself would not interfere in the election might have brought about some sort of compromise. Sigismund, however, failed to recognize the need of conciliatory measures until he had lost much of his prestige as Protector of the Council. When he met opposition he generally attempted to overawe his opponents, but often found them as stubborn as himself. Cardinal Fillastre gives as his opinion that Sigismund encountered as many difficulties as he did because of his counsellors who led him into a number of provocative measures. As these counsellors were the Archbishop of Milan, the Patriarch of Antioch, the Archbishop of Riga, and Bishop Hallam of Salisbury, the Cardinal in giving this opinion added the further remark that it was said that "Mars ruled the Council."[5] Though the Patriarch of Antioch (John Maurosius) was of the French nation he was from the beginning of the Council committed to the policies of Sigismund. Even after the

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4 Fillastre, *Gesta C. C., l. c.*, II, pp. 110-111.

5 *Ibid.*, pp. 114-115. MARS is of course derived from the initial letters of their respective Sees.

rupture between Sigismund and the French nation the Patriarch continued in sympathy with the Emperor, and as a result became *persona non grata* in their assemblies.[6] When the French party grew into the ascendency, he attempted to rejoin them, but was refused admission to their councils.[7]

Sigismund Arms His Followers

The open enmity between Sigismund and the opposition party grew in intensity and on the evening of June 10, an incident occurred which did much to increase the bitter feeling. For some reason or other, Sigismund armed a number of Hungarians and Poles, and this action gave rise to a rumor that he intended to attack the Cardinals and the delegates of the French nation. Whether the rumor was ill founded or Sigismund was merely making a threat for his own advantage, the Cardinals and the French delegates made capital of it by barricading their dwellings for some nights afterwards to resist any possible attack.[8] They gave the impression at least that Sigismund was endeavoring to use force to carry out his purposes.

Opposition of Spanish Delegates

Whether or not Sigismund on this occasion really wished to intimidate his opponents he gave ample evidence a short time later in his dealings with the Spanish nation that he was at least committed to such a policy. The delegates from Spain naturally wished to uphold the claims of their countryman, Benedict XIII, until a new Pope had been elected. But in following out this policy they were, of course, brought into direct opposition to Sigismund's plan of deposing the Spaniard at

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[6] *Ibid.*, II, p. 104.
[7] *Ibid.*, II, p. 146.
[8] *Ibid.*, II, p. 114.

once. As a result of this opposition, they, too, were made to feel the displeasure of the dictatorial prince. On June 26 Sigismund called a meeting of the deputies and presidents of the nations to discuss the matter of deposition and, as was to be expected, the Spanish deputies appeared for the meeting. They were bluntly told by Sigismund, however, that they were not invited and that they should return to their own nation and await him there. After some hesitation, which irritated Sigismund, the Spaniards withdrew. Later when the Emperor came to their nation and ordered them to join at once in the deposition of Benedict, they refused to take any action until they had sufficient time to deliberate.[9] Here again Sigismund had blundered through his lack of tact.

Threatenings of Sigismund

Further trouble was caused at Constance on that same day when a report was spread throughout the city that Sigismund was planning to seize some of the Cardinals and hold them as promoters of the schism. The basis of such a charge was purported to be that they were opposing the deposition of Benedict at the present time as formerly they had impeded, as much as they were able, the deposition of John XXIII. The Cardinals either took the rumor seriously or, as on a former occasion, were desirous of making capital of it. At any rate they appealed to the officials of the city for protection on the ground that their freedom was threatened. The officials promised them all necessary protection, but Sigismund assured them that they had no reason to fear for their security.[10]

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9 *Ibid.*, II, pp. 117-118.
10 *Ibid.*, II, pp. 118-122.

Attempt at Compromise

In an endeavor to end such fruitless wrangling the Cardinals sought to effect a compromise. On June 28, they promised to dispose of all preliminary matters pertaining to the deposition of Benedict, the election of the new Pope, and the reform enactments within twenty days if they could have the assurance of liberty and security in the election. To this proposal Sigismund gave a rather vague answer. He readily promised them the liberty and security which they demanded, but insisted also that the decrees already issued by the Council in reference to the election should remain in force.[11] The Emperor knew, of course, that these decrees, especially that of July 4, 1415, had been designed to eliminate the Cardinals from all participation in the election.[12] As a matter of fact, the Cardinals were now attaining such power in the Council itself that they had no fear of presenting the election issue to the Council. The plan, moreover, which D'Ailly had presented on Pentecost, might be accepted by the Council as a compromise measure for the election and in that event they would be sure of a commanding control in the election. What they desired from Sigismund was the unqualified assurance that he would not interfere in the election. Sigismund himself was beginning to realize that the Cardinals were now becoming the real power in the Council as three of the five nations were in sympathy with them. On his part therefore, a counter proposition was offered to the Cardinals as a possible compromise. He proposed not to interfere in the election, as they requested; but added the proviso, that the Pope whom they might select must

11 *Ibid.*, II, pp. 123-125.

12 "Quantum ad decretum capciosum est in eo, quod innovat decreta concilii circa materiam eleccionis, que a multis dicitur non valere; ymo facit novum, in quo excludit cardinales ad eleccionem. Et ista responsio non placuit nacionibus predictis et collegio cardinalium et deliberaverunt ad nullium actum procedere, donec haberent plenam securitatem et modum eleccionis." *Ibid.*, p. 126.

be satisfactory to him.[13] The Cardinals were loath to make such a concession to the Emperor, since in practice it would give him the right of veto in the election. As a result, this compromising gesture of Sigismund did nothing to clear up the difficulty.

Ambitions of the Nations to the Papacy

Great as was the difficulty attendant on the question of the precedence of deposition or election which divided the Council into two hostile factions, there was another question at this time which was causing divisions within the two factions. There was a strong possibility that the new Pope might be selected outside of the members of the Sacred College; D'Ailly, in fact, had made such a suggestion in the preliminary meetings early in the Council.[14] This meant also the possibility that the Pope might be selected from some group other than the French or Italian, and such a prospect kindled the national hopes of many. That this sentiment manifested itself in the Council at this time we know from the rebuke of John Zacharia of the Order of Hermits, who in the sermon of July 4, 1417, declared that each nation was seeking to have one of its own members elected to the Papacy; that the delegates were ready to prefer private and national interest to that of the universal Church.[15]

Sigismund Pledges Security

In the midst of these troubles there finally appeared a ray of hope on July 11, when Sigismund, at last realizing, that he must make some concession to the opposition, posted his pledge for the liberty and security of the Cardinals in the matter of the election.[16] It now ap-

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13 *Ibid.*
14 *Vide Supra*, p. 48.
15 *Sermones Concilii Constanciensis*, Finke, *op. cit.*, II, pp. 499 ff.
16 Fillastre, *Gesta C. C.*, Finke, *op. cit.*, II, pp. 126-127.

peared that the matter of Benedict's claims might be at once disposed of and accordingly formal citations for the Avignon Pope to appear at the Council for judgment were issued.[17]

Discord in the Spanish Group

But while the Council was engaged in this matter, discord broke out once more among the members of the Spanish delegation. The delegates from Castile who from the time of their arrival at Constance had protested against the leadership in the Spanish nation which was granted to the Aragonese, refused at this critical moment to support the action of the Council against Benedict until there was a definite rearrangement of the leadership. This eruption was quieted, however, by the appointment of a commission made up of Cardinals and delegates of other nations who were authorized to examine the matter in dispute and report to the Council.[18] For the present the Castilians were satisfied.

The *Flagellantes*

During the short interval of peace between the settling of this difficulty and the formal trial of Benedict the Council was able to act in a matter of grave concern. On July 22 the Council examined the doctrines and practices of the sect known as the *Flagellantes;* but, though they found their teachings and customs at variance with orthodoxy, formal condemnation of the sect at this time was deferred. That the Council did not issue an outright condemnation was probably due to the earnest plea made by Gerson to deal in a kindly spirit with them, to win them from their ways by charity rather than compulsion.[19] Though for a time the great Vincent Ferrer was

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17 Vienna (Dorre) MS. in VDH., IV, x, 1357-1360.

18 Fillastre, *Gesta C. C., l. c.,* II, p. 127.

19 Lenfant, *op. cit.,* II, v, 90-91; VDH., III, vii, 98-105.

associated with this sect, he had since withdrawn from them, in answer, perhaps, to the personal plea made by Gerson.[20]

Attack on the Cardinals by John of Antioch

On the day following the discussion of this sect, the bitter feeling between the party of Sigismund and the College of Cardinals, which was smouldering under the agreement to allow the deposition of Benedict to precede the election of the new Pope, was fanned again into flame. In the sermon of the day (July 23), Cardinal Zabarella took occasion to make a general plea for reform.[21] This reference to the reform gave a pretext to the Patriarch of Antioch who declared that it should be thorough, applying to all grades of the curial officers, especially the Cardinals, whom he accused among other things of flagrant simony. This attack brought a pointed answer from D'Ailly who accused the Patriarch of hypocrisy.[22] That the two groups did not at once engage in open warfare was due probably to the fact that all preliminaries to the trial of Benedict XIII had been disposed of and the Council was merely waiting for the final refusal to their terms on his part.

Stubbornness of Benedict

The citations and threats which the Council had issued in the hope of bringing the Avignon Pope to terms were futile. He ridiculed the citations and ignored the threats. In his purpose to retain his questionable rights he remained unmoved. Neither the example of Gregory's resignation nor the warning of John's deposition in any way perturbed the veteran. Nor did the fact that Western Christendom was ready with one voice to de-

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20 Cf. Letter to Vincent Ferrer from Gerson in VDH., III, vii, 94-97.
21 Cerretanus, *Liber Gestorum C. C.*, Finke, *op. cit.*, p. 252.
22 *Ibid.*

nounce him as a schismatic and heretic in any way weaken his determination to surrender not a single iota of his claims. He greeted with contempt the two members of the Black Benedictines who had been sent by the Council to urge him to resign.[23] On seeing them approach, according to Poggio Bracciolini, he said contemptuously: "Let us hear the synodal crows." To this the two messengers promptly replied that: "It should not be at all wonderful if we crows approach a castaway corpse." When they read the statement of the Council in which he was referred to as a fomentor of schism, he wrathfully interrupted them and declared that such an accusation was false.[24] The messengers failed to make any impression upon the iron will of Benedict and were forced to report a failure to the Council. As it was now quite evident, that of his own will Benedict would never surrender his claims to the Papacy, the Council proceeded, as in the case of John XXIII, to read the list of complaints against him and to condemn him as a schismatic and heretic.

Deposition of Benedict

On July 26, Benedict was deposed by the Council and all of his followers were released from their obedience to him.[25] The Avignon claimant, however, unlike the thoroughly cowed Pisan Pope, refused to bow to the decision of the Council. Though he was now abandoned by all who formerly supported him, save the meager retinue of his own household, confronted as he was by an opposition that would have crushed another man, and facing the ridicule or condemnation of Western Christendom he refused all compromise and all terms of peace.

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23 These two messengers were Lambert de Stipite and Bernhard de Planchia. Cf. Letter of Lambert to Cardinal de Viviers, in Vienna (Dorre) MS. in VDH., IV, x, 1124-1129.

24 VDH., IV, x, 1146.

25 Brunswick and Leipzig MSS. in VDH., IV, x, 1369-1377.

Impotent though he was in his isolation, yet from the bleak solitude of Peniscola, where he remained until his death, five years later, he was "daily fulminating excommunications against the King of Aragon and the Council."[26] To the end he carried on the warfare for his claims, and even the immediate approach of death did not weaken his stubbornness. His last act on earth in relation to his claims was to provide a successor to continue to plead the rights of the succession which his own predecessor Clement VII had inaugurated and which he himself had vainly spent his life and reputation in attempting to sustain.

Election vs. Reform

The three claimants to the Papacy had now been set aside and after nearly forty years of schism an opportunity to restore unity to the Church was about to be realized. But the deposition of the last claimant also terminated the truce between Sigismund and the Cardinals, since it was for that purpose that hostilities for a time had ceased. Settlement of the right of the deposition of Benedict to precede the election did not settle the further question, namely, whether the election, which had been put off until after the deposition of Benedict, should not be attended to, or whether it would be put off until the reform enactments had also been cared for. Difference between Sigismund and the Cardinals over the precedence of either of these matters brought their respective parties to the apogee of bitterness toward each other, and this bitterness was accentuated by national antipathies.

Issues at Stake

We can appreciate the acuteness of the struggle if we realize the issues that were involved in the settlement

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26 Lenfant, *op. cit.*, II, v, 529.

of this question. Far from being of purely academic interest to the delegates at Constance, the question of precedence in this matter, owing to the fact that the Council itself had come to an *impasse* in the reform program, now stood out as one of the paramount issues of the discussion. Actually the questions at stake in this struggle were: who would have the right to select the new Pope, and who would conduct the reform. These questions were of momentous interest to all of the party now opposed to Sigismund and, of these, the Cardinals were the most deeply concerned. If the election were given precedence, the new Pope would be the dominating factor—if not the sole arbiter—in the reform. As in many instances the interests of the Cardinals would involve those of the Pope, they could, therefore, feel secure once he had been elected. If on the other hand the reform were given precedence, the Cardinals, even though they now held a favorable position in the Council, realized that they might then have to face a Council, manifestly hostile to them, and which on more than one occasion had displayed its enmity.

Cardinals Fear of Sigismund

The Cardinals were obsessed by the same fear that had urged them to oppose Sigismund in the matter of the deposition of Benedict. In the earlier affair they had only to fear that he might effect his personal choice for the Papacy by a concerted acclamation following the deposition of Benedict. But now they were faced by the obvious danger that were Sigismund successful in forcing through the reform enactments before the Council made ready for the election he would become the acknowledged leader of the reform for which all Christendom was pleading. They knew that he would not then hesitate to demand his own choice of Pope on the ground that such a selection would fortify the newly enacted reform.

Sigismund's Distrust of the Cardinals

On his part Sigismund feared that, were the election to be given precedence, there would be present the probability that the Council itself might dissolve before the reform legislation could be effected. To this fear, which the action taken by the Cardinals after the election at Pisa seemed to justify, was added the personal ambitions of the Emperor. Here was a prince who could see the possibilities opened to the secular power because of the unique situation of the Council of Constance, and it is not unreasonable to suppose that he grasped the full consequence that might attend a reform carried through by the Emperor of the Holy Roman Empire, where an Ecumenical Council had failed. Perhaps, too, he envisaged the possible precedent that might be established for future emperors through the present necessity and thus in the future they would be not only advocates and protectors of Ecumenical Councils, but arbiters therein as well.

Cardinals Again Veer to Papacy

The Cardinals of the Conciliar party were slowly awaking to the full possibilities of the theories which they had advocated. To discuss in theory the power of a secular prince in an Ecumenical Council was one thing, to face a prince in Council, who took their teachings literally, was quite a different matter. Earlier when, following the flight of John XXIII, they were despoiled of all their rights in Council, they had an opportunity to learn that without the recognition of the Papacy they themselves were helpless against the revolutionary tendencies of the Council. It appeared that they had learned the lesson on this occasion for they then endeavored, it will be recalled, to convince the Council that the Pope held unquestioned supremacy in the Church.[27] But as

27 *Vide supra,* p. 80.

they were able again to assume their former power by taking advantage of the antipathies which divided the nations, they once more turned to attack the institution which they should have defended. This new struggle with Sigismund, involving as it did such far reaching consequences to themselves, forced them to return once again to the defense of the Papacy.

D'Ailly the Leader

Cardinal D'Ailly was the first to grasp the full import of the new situation and the magnitude of the issues at stake. With characteristic fearlessness he now entered the lists against Sigismund in a contest which, for his own part could admit of no compromise. Earlier in the Council, D'Ailly had lead the fight to establish the superiority of the Council in relation to the Pope; but now, when the alternative was placed before him of accepting the Council without the Pope or of reuniting the Council with the Pope as lawful Head of the Church, without whom no reform could be legislated, he did not hesitate to make his choice. Though his acceptance of the Pope as an indispensable medium of reform implied a partial disclaimer of his earlier efforts, D'Ailly now entered whole-heartedly into the struggle. The unique position of the French Cardinal at the Council made him a most formidable opponent. Aside from his great influence with the delegates who were in sympathy with the Conciliar movement, he was also the leader of the Cardinals, whose influence with the Italian nation assured him of support from that quarter. Added to these assets, he was also the "Protector" of the interests of the French king in the Council and this assured him of the support of the French nation. Then, too, the natural sympathy of the Spanish delegates toward France, as well as their manifest opposition to Sigismund and his purposes, assured D'Ailly of the support

of this nation also. In entering the struggle, therefore, D'Ailly had the majority of the votes on his side, and thus fortified he confidently opposed the efforts of Sigismund. The magnetic and resourceful leadership of the Cardinal as well as his convincing eloquence, were thrown into the balance against the arrogant tactics of Sigismund. And the courage and determination of the great churchman seemed to be infused into his colleagues, for they stood up resolutely for their rights during the trying days of this struggle and remained unperturbed by the blusterings of Sigismund.

Danger of a Greater Schism

In addition to the immediate danger which had aroused the Cardinals, D'Ailly saw too that there was also a possibility that if the reform legislation were first enacted, the Council might be dissolved before the election could take place. A more dangerous schism would then result. His fears, as is shown in the memorandum presented by his followers,[28] were not without foundation, for the hatreds, dissensions, and divisions which had arisen between Sigismund and the ambassadors of certain kings, as well as the strife caused in Council because of the wars in Europe were already notorious.

Significance of the Two Parties

Through the summer and early autumn, the Council remained a scene of discord and strife.[29] The near prospect of a Papal election stirred the personal and national ambitions of many, but dominating all considerations was the great issue that was being fought between the parties of Sigismund and Cardinal D'Ailly. It is worth a passing notice to call attention to the re-

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28 Leipzig MS. in VDH., *Praefatio ad Lectorem*, I, xx, 925-926.

29 It may be said that the Journal of Cardinal Fillastre, *Gesta Con. Const.* during this period reads more like a catalogue of disputes than the history of an ecclesiastical assembly, *l. c.*, pp. 133-146.

semblance of this issue to the greater spiritual struggle that was to engulf Europe a century later in the wake of the Protestant revolt. Then the nations which now supported Sigismund—the Germans and the English—would be the leaders of that phase of Protestantism which was to accept as a principle the right of the secular prince to interfere in spiritual matters and ostensibly to reform the Church. Those which on the other hand opposed Sigismund—the Italian, French, and Spanish—were to lead the Catholic reaction which was to be based on the principle of the supremacy of the Pope in spiritual matters and the conviction that through him alone could a true reform be enacted.

Arbitrariness of Sigismund

The first move that Sigismund made in the struggle justified the apprehension of his opponents and gave them good reason to demand that the election take place at once. On August 1, the Emperor called a meeting of the nations and arbitrarily assumed the right of saying who should attend. Taking a position at the entrance to the Council hall he refused admission to the Presidents of the three nations which opposed him and certain of the Italian delegates also.[30] In speaking of this incident, Cardinal Fillastre records that it was suggested at the time that Sigismund acted in this high-handed manner because of the great power he now had in the Council since the Papacy was vacant. Fillastre adds that the existence of certain decrees giving him such powers was alleged at this time, and though not certain he fastens suspicion on the Patriarch of Antioch for advocating them.[31] At any rate the action of Sigismund, apart from the existence of the decrees, was hardly warranted to mitigate the opposition of the Cardinals.

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30 *L. c.*, p. 32.
31 *Ibid.*

D'Ailly Points out the Danger

On the feast of Saint Louis of Toulouse (August 19), Cardinal D'Ailly was able both to bring the cause which he was advocating before the Council and to rebuke those who assailed it. During the panegyric on the great French Bishop and Confessor he made a digression into the question that was then agitating the Council. He pointed out the danger of leaving the Church without a Head even for a time, and rebuked the hypocrisy of the party that was desirous of giving precedence to the reform. "They clamor" he cried, "for a reformation in head and in members, and remain themselves in a monstrous deformation of vices. They are silent about their own failings, but shout accusations against others." [32]

Sigismund's Attempt to Compromise

The influence of D'Ailly was having its effect upon the mind of the delegates and Sigismund was forced to realize that if the Council were to accomplish any of its purposes, his party must make some concessions to the more powerful party which the Cardinal was leading. Desirous of effecting some sort of compromise he convoked a special meeting on August 29 for that purpose and summoned the delegates of England, Aragon, Portugal, Savoy, Burgundy, and Cardinals Zabarella, Castiglione and Alaman to attend. The only proposal, however, that Sigismund had to offer this carefully selected assembly was that he would agree to the election taking place at once if he could be assured that the Pope elected would meet with his approval. As on a former occasion

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32 VDH., IV, xi, 1399-1401. Van der Hardt incorrectly placed this sermon on August 26, feast of St. Louis, King of France. He evidently confused the two saints as one, since he himself in an introductory note speaks of the saint as "Bishop of T." Finke rightly places this sermon on August 19, the feast of St. Louis, Bishop of Toulouse. *Op. cit.*, II, p. 506.

the Cardinals refused to give the Emperor a power equivalent to a veto in the election.[33]

The Death of Hallam

This failure of the two parties to reach a compromise served to increase the ill feeling between them. This bitterness became so intense that during the month of September, according to Cardinal Fillastre,[34] the delegates gave more thought to their personal safety than to the purposes of the Council. But the end of the struggle was now in sight. Sigismund at best was hard put to retain even a disputed leadership after his return from his journey to Spain, but if any hope of regaining his lost leadership remained, it was dispelled on September 4, when news reached Constance from the neighboring town of Gottlieben that Bishop Hallam of Salisbury—whom Van der Hardt styles the *Fidus Achates* [35] of Sigismund, had died there.[36] The death of this great churchman was an advantage to the party of the Cardinals, since it was he who had kept the English delegates in loyalty, if not in sympathy, with the efforts of Sigismund.[37]

Protest of the Cardinals for the Election

The passing of Hallam appeared for the moment to make the party of Sigismund even more determined, as was made evident at a meeting of the nations on September 9. At this meeting Cardinal Alaman read a protest on behalf of the Cardinals in which it was stated

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33 Fillastre, *Gesta C. C.*, Finke, *op. cit.*, II, p. 136.

34 *Ibid.*, p. 143.

35 *Op. cit.*, IV, xi, 1425-1426.

36 *Ibid.*, 1414.

37 "Quamdiu proinde hoc Archiepiscopo Anglo Caesar usus est adjutore in Reformationis negotio urgendo, tamdiu firmum mansit Caesaris propositum, ut a reformatione perficienda non desisteret, neque per novi Papae se electionem turbari sineret. Hoc autem defuncto, aliam sensim res induit faciem, invito Caesare. . . . *Ibid.*

that they were in no manner opposed to the reform nor had they any desire to defer or impede it. They insisted, however, that the unity of the Church was the primary object of the Council and that the reform was impossible while the Papacy remained vacant.[38] The protest, which was obviously a plea to give precedence to the election, produced an uproar in the meeting. Sigismund with the English and German delegates departed and as they were going out, the cry "Let the heretics withdraw" was heard.[39]

The Castilians Attempt Flight

After the close of the meeting the delegates of the King of Castile, resentful of the fact that their protest against the privileges accorded to the delegates of Aragon had not been acted upon, started for home. They were, however, overtaken by Sigismund shortly after they left the city and were induced to return.[40]

The Cardinals Feel Sigismund's Displeasure

The Cardinals on the following day were made to feel the displeasure of Sigismund. When they attempted to hold a meeting they were refused the use of either the Cathedral or the Episcopal Palace. They met, therefore, privately and resolved to leave Constance; but Frederick of Brandenburg, to whom they appealed to secure them a "Safe Conduct," persuaded them to remain.[41]

New Petitions of Cardinals

On September 11, at a meeting of the nations the Cardinals presented another petition for the election and pledged themselves to do all that the Council desired in

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38 Schelstrate in VDH., IV, xi, 1415. Text from Schelstrate, p. 63, in VDH., *Praefatio ad Lectorem*, I, xx, 916-917.

39 Fillastre, *Gesta C. C., op. cit.*, II, p. 141, VDH., IV, xi, 1415.

40 Fillastre, *Gesta C. C., l. c.*, pp. 140-141. Dacher, in VDH., *l. c.*

41 Dacher, *l. c.*, 1415-1416.

the matter of reform after the election of the new Pope. They also disclaimed responsibility for the failure of the Council of Pisa to enact the reform after the election of Alexander V., since, as they maintained, the whole Council had expressed the wish to defer the matter to the next Council.[42] Despite those pledges, Sigismund refused to accede to their request. Nor did he abate his hostility toward them. That same evening the city was again disturbed by the rumor that Sigismund would attempt to capture the Cardinals. Nothing daunted, they appeared on the following day in Council wearing the colors of their office as a sign, it was said, that they were prepared to continue their protest until death and to shed their blood, if need be, for the sake of the Church.[43]

Obsequies of Hallam

There was a lull in the struggle for a day, however, when all the delegates and notables gathered at the Cathedral on September 13 for the obsequies of Bishop Hallam.[44] That it was the good offices of this influential churchman alone that had kept the English nation in sympathy with the plans of Sigismund, became now all too apparent. Within a few days after his funeral, the English delegates deserted Sigismund[45] and thereby dealt a death blow to his hopes.

The Plea of the German Delegates

On the day following the funeral of the English bishop, the German delegates made a last desperate effort to induce the Council to give precedence to the reform. They submitted a plea in which they declared

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42 Schelstrate, in VDH., IV, xi, 1416-1417; text in *Praefatio ad Lectorem*, I, xx, 917 ff.

43 Schelstrate, in VDH., IV, xi, 1417; *Fillastres Gesta etc., op. cit.*, II, p. 142.

44 Salmansweiler, MS. in VDH., IV, xi, 1418.

45 VDH., IV, xi, 1425-1426.

that while they did not accept one of the heresies of Wycliffe and Hus, namely, that the Church could live without the Pope, still they desired in the interest of peace to have the reform precede the election. The Sovereign Pontiffs, they declared, had governed wisely for twelve centuries; but during the last century and a half they had become avaricious and had allowed abuses in the Church to go unchecked. They also reminded the Council that, at Pisa, there had been an election; yet the reform that had been urged there had never been carried out. They asked in conclusion, therefore, that the Holy See remain vacant for a time while the Council enacted the necessary reform.[46] This last plea of the Germans had no effect on the Council and, as the English delegates withdrew from Sigismund's party, the Emperor could now count only on the support of one nation.

Obstacle of Voting Method

This withdrawal of the English delegates from Sigismund's party left the Emperor helpless as far as directing the activities of the Council was concerned, for now even the Germans, seeing the futility of the struggle, were wavering in their loyalty to him. Speaking in terms of voting strength, Sigismund was now opposed by four-fifths of the Council, yet the party in the majority dared not take decisive action in the matter of the election until they could secure the consent of the Emperor and of all the nations. The method of *voting by nations* which had been adopted, enabled one group to hold up the action of the Council, since there was ever present to the delegates the haunting fear of a new schism which might be effected by any one of the nations. Conscious of this, the Council, through Sigismund, had on more than one occasion prevented delegates from

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46 Berlin MS. in VDH., IV, xi, 1419-1426.

leaving Constance, but in the present instance it was Sigismund himself and his own nation that might depart were the Council to force the issue in the matter of the election. Sigismund was made to realize, however, by the withdrawal of the English delegates from his support, that his opposition, in view of the changed attitude of the Council, placed him in the unenviable position of using his office as Protector of the Council to delay not only the election of the new Pope, but the reform also. Yet, to withdraw from the position he had assumed and retain his prestige, was now impossible, unless a compromise were suggested by his opponents and a neutral mediator appointed. The possibility of such a mediator being found at Constance was quite unlikely, since it was Sigismund himself who would have ordinarily taken such a position. As a result he continued the hopeless fight through the early autumn.

Death of Cardinal Zabarella

The short truce between the parties which had followed the death of Bishop Hallam was renewed on September 26 by the death of Cardinal Francis Zabarella of Florence.[47] The frail body of this great canonist sank under the hardships of the struggle in Council. He had been one of the leaders of the Conciliar movement and one of the most zealous of the reform agitators, but, unlike so many he neither urged the Conciliar party principles for his own aggrandizement nor did he merit the reproach of hypocrisy that was often hurled at the reformers. None, except perhaps Cardinal D'Ailly, fought so strenuously for the traditional rights of the Cardinals as did this prince of the Church; yet his own life was a model of simplicity and self denial. He was noted among all the ecclesiastics at the Council for his charity to the poor. It was said in fact that the revenues of his office

47 Dacher in VDH., IV, xi, 1429-1430.

went mostly for this purpose.[48] After the celebration of his obsequies at Constance on October 2, his body was transferred to Padua, the city of his birth.[49]

The Decree *Frequens*

Because of the dispute in the Council, a General Session had not been held for more than two months. All were agreed that even before the question in regard to the election was settled that there should be a scrutiny of the proposed reform. The Council, therefore, assembled on October 9 (the Thirty-ninth Session) and examined the articles upon which action might be taken later. In regard to the reform, the delegates at this session merely discussed such matters as the transfer of ecclesiastics and the right to the *spolia*[50] of benefices, and the holding of future Councils.[51] The last item was really the primary object of holding this session, for it was then that the decree *Frequens,* which may be termed the greatest victory of the Conciliar party, was issued.

Principles of the Decree

In unequivocal terms, this decree pronounced definitely the supremacy of the Council in relation to the Pope and insisted that he, when elected, should make a profession of faith which should recognize the authority of Ecumenical Councils. The decree also made provision for future Councils; of these, the first was to be convoked within seven years after the Council of Constance and the second five years after the first. Following the second Council there were to be periodic Councils held every ten years. The possibility of future schisms was

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48 Cf. *Vita* by Poggio in VDH., I, ix, 537-546, and the eulogy at his funeral in the Leipzig MS., *ibid.,* I, ix, 546 ff.

49 Lenfant, *op. cit.,* II, v, 122.

50 *i. e.* property left by defunct prelates.

51 Vienna, Brunswick, Dorre, Leipzig and Gothenberg MSS., in VDH., IV, xi, 1432-1444.

also considered and provision was made to prevent the recurrence of such difficulties as those now confronting the Council of Constance. In the event of future schism a Council would be held in the year following the outbreak and, when assembled, it should render final judgment.[52] In issuing this decree the delegates were in accord with the politico-ecclesiastical theories of Marsiglio of Padua, for, if operative, it would make the sovereign power of the Church reside in what might be termed a "Parliament of Christendom."[53] It is well to note in passing that this decree was enacted by the delegates after the three claimants for the Papal office had been definitely removed. Had such a decree been passed in the earlier stages of the Council we might interpret the action of the delegates as emanating from a desire on their part to tread their way as expeditiously as possible through the maze of legal difficulties with which they were then surrounded. Faced, as they were, then, by the realization that the claimants for the Papal tiara might yield to the wishes of the Council only through overt compulsion, one can understand how many sincere churchmen would accept, as the only immediate hope, such principles as were embodied in the decree *Frequens,* solely from a desire to restore unity to the Church. No such difficulties were faced at the Thirty-ninth Session. Not only were the three claimants already removed from office but the Council was actually preparing for the election of a new Pope, one who would undoubtedly be recognized by the united voice of Christendom. The decree appears, therefore, as nothing more than an attempt to make the new Pope subservient to the principles of the Conciliar party.

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52 Cf. the decree *Frequens, ibid.,* coll. 1435-1444.

53 According to Figgis this decree was "probably the most revolutionary official document in the history of the world," *Political Studies from Gerson to Grotius,* p. 35.

Merely Partisan Ambition

Placed in its proper historical setting the decree *Frequens* is evidence of the lack of altruism on the part of the leaders of the Conciliar party, especially the Cardinals. Already on two occasions the Cardinals had made a *volte-face* on party principles and had used the Papal power in turn to ward off the enlargement of episcopal power and the usurpations of Sigismund. Though they might have learned from their struggles with Sigismund that the logical conclusions of the principles of the Conciliar party could be interpreted by a secular prince to his own advantage, they now turned once more to attack the Papacy. They had not learned apparently how dangerous an expedient it is to lessen the Papal power.[54] The issuances of this decree at the time may have served in a measure to bring both parties at Constance closer to a compromise, since it recognized much that the reform party was striving for. At any rate, both parties welcomed an opportunity that was shortly presented to them to arbitrate their difficulties.

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54 Apart from the present Council the principles embodied in the decree *Frequens* remained a cogent weapon which caprice or national interest might use against the Papal power. It gave rise to a controversy which, despite the decree *Pastor Aeternus* of the Fifth Lateran Council (1512-1517) was not definitely settled until the Vatican Council.

CHAPTER V.

CONCLUSION OF THE COUNCIL

Compromise Effected

About the middle of October, 1417, as the Council of Constance was ending its third year in session, word was brought to the delegates that Henry Beaufort, Bishop of Winchester and uncle of the English king, was at the nearby town of Ulm, en route to the Holy Land as a pilgrim.[1] Though both parties in the Council still stubbornly maintained their positions in the election controversy, they were also anxious to have the matter arbitrated if it were possible. When the delegates heard, therefore, that the great English churchman and statesman was so near they readily accepted the suggestion made by his countrymen at Constance that he act as mediator. On October 22, Beaufort in the garb of a pilgrim was brought to Constance. At a meeting of the Cardinals and the nations which was held upon his arrival, the long desired compromise was effected through the plan which he suggested. It was agreed that the election should take place at once, but that the proper guarantees which would insure the enactment of the program of reform must also be given. Sigismund demanded that these guarantees take the form of a public decree and to this the Cardinals agreed.[2]

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1 Schelstrate (Roman MS.), in VDH., IV, xi, 1447; Fillastre, *Gesta Concilii Constanciensis* in Finke, *Acta Concilii Constanciensis*, vol. II, p. 147.

2 VDH., *l. c.*, also Fillastre, *Gesta C. C.*, l. c.

The Presence of Beaufort at Constance

It is not difficult to understand why such a great statesman as Henry Beaufort would be selected as mediator in this controversy, since his countrymen had recently joined the party that wished to give precedence to the election, while on the other hand the close relation between his own nephew and Sigismund made him acceptable to the other side. It is of interest, however, to know why he was in the neighborhood of Constance at this particular time. Cardinal Fillastre flouts the notion that the English bishop was then on a pilgrimage to the Holy Land, since winter was about to set in. He declares moreover that there was some suspicion among the delegates that Beaufort had come to Constance as a potential candidate for the Papacy.[3] It appears more likely, however, that he had come to Constance as a messenger of the English king, since that monarch was quite displeased with the efforts of his delegates to carry out his instructions during the troublous days of 1417.[4]

Defeat of Sigismund

With the termination of the election controversy Sigismund ceased to be a factor in the Council. As Bryce has remarked, this event marked the final appearance of a Roman Emperor, and the lawful temporal Head of Christendom, in the exercise of international functions.[5] It might be said also that Sigismund at the Council of Constance represented the last display of the Empire as a factor in the political life of Europe. There the grandeur of the ancient Empire flashed momentarily in the

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3 *Op. cit.*, II, pp. 147-148. That Beaufort was not averse to ecclesiastical honors is evident from the fact that he risked the displeasure of the English king by accepting the Cardinal's hat. Stubbs, *Constitutional History of England*, vol. III, pp. 143-144.

4 This we learn from a letter of July 18, 1417. Cf. Lenfant, *op. cit.*, II, v, 98-99.

5 *The Holy Roman Empire*, p. 353.

person of the Luxemburg prince. Indeed as he started for Spain, on that eventful journey which turned out to be the ultimate ruin of his hopes of exploiting the Council, he held a position in the affairs of Western Christendom that even the greatest of his predecessors in the Empire might have envied. But from the time of his return from that journey his influence in the Council itself receded, till he became almost a negligible factor in its activities. Finally, when he agreed to the compromise which gave precedence to the election, he practically admitted his own defeat.

Question of Electoral College

The matter of giving precedence to the election had been settled to the satisfaction of all, but the question now arose as to who should elect the new Pope. In accordance with the decree which Nicholas II issued in 1059, the Cardinals alone had the right of electing the Pope, and until the Council of Pisa, that right had not been questioned. At that Council it had been necessary for the College of Cardinals to receive permission of the Council before they could proceed to the election.[6] It will be recalled also that at the Council of Constance this usurpation had not only been sanctioned, but had been carried even further when at the Fourteenth Session (July 4, 1415), a decree was issued which reserved to the Council not only the right of electing the new Pope, but also of designating the manner and place of the election.[7] But as the time drew near for the election, the position of the Cardinals was quite different from what it was when this decree was passed. Then they were at the mercy of the nations; now they had become the dominant force in the Council.

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6 Wolfenbüttel MS., in VDH., II, iii, 140-141.

7 *Vide supra*, p. 87.

Dilemma of the Council

That decree, however, brought a new problem before the Council. It could not be ignored; but on the other hand the traditional rights of the Cardinals must be respected. A plan that would save the latter's privileges in the matter of the election and at the same time take cognizance of the decree of the Council would undoubtedly solve the problem and appeal to all; but though a number of plans were proposed with that end in view, differences between the Cardinals and the nations for a time prevented the acceptance of any.

Position of Delegates

Though in justice to the delegates at Constance it is only fair to call attention to the unusual situation with which they were confronted, it is at the same time more or less apparent that the feelings of distrust between the Cardinals and the nations, which had already caused much havoc in the Council, now prolonged the discussion on the manner in which the new Pope should be elected. It is true that in the election the delegates could not with consistency surrender to the Cardinals all prerogatives which the decree of the Fourteenth Session had given to the Council. Nor could they for a more practical reason leave the election entirely to the Sacred College. It must be remembered that all members of the Sacred College at this time had been appointed to their office by one or other of the three Popes whose claims were questioned. Anxious to leave no possibility of a question being later raised as to the legality of the Papal election at Constance, it was but natural that the delegates were reluctant to leave the election entirely to the College of Cardinals, whose right to their own office could also be questioned. An election by such a body might merely be the beginning of a second schism.

D'Ailly's Plan Is Rejected

The distrust of the nations toward the Cardinals, however, also played an important part in this discussion. It would appear that the acceptance of the plan for the election as outlined by Cardinal D'Ailly in his sermon of the previous Pentecost [8] might have settled the difficulty to the satisfaction of all and would have left no loop-hole for later scruples, since it not only gave to the Cardinals their traditional vote but also gave to the Council a share in the election. But when a plan similar to it was brought forward, only the Italian and French nations would agree to accept it.[9]

Proposal of German Delegates Rejected

The Germans wished to have the Cardinals as a unit excluded from the election, and to that end submitted a plan whereby a single electoral college of seventy-five members should be formed from the five nations. According to this plan each of the nations would have fifteen votes and such as had members in the Sacred College were to include them. But the Cardinals objected to this proposal.[10] They numbered only twenty-three (less than one-third of the proposed electorate) at this time, and it was possible, therefore, for a candidate to receive the two-thirds vote required for election without a single vote from the Sacred College. Thus the plan of the Germans as well as the others that had been proposed proved futile, being unacceptable either to the nations or to the Cardinals.[11]

The Acceptance of a New Plan

Finally on October 28, a plan was proposed and accepted at a meeting of the nations which in substance

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8 *Vide supra*, p. 113.
9 Fillastre, *Gesta C. C.*, Finke, *op. cit.*, II, p. 148.
10 *Ibid.*, pp. 148-149.
11 *Ibid.*

agreed with the plan previously submitted by D'Ailly. According to the accepted plan the twenty-three Cardinals were to form one electoral college and thirty clerical delegates (six from each of the five nations) were to form a second. It was further provided that the successful candidate must receive not only a two-thirds majority in the combined vote of the total poll of the fifty-three electors; but must also receive a like majority in the vote of the Sacred College and in each of the nations as well.[12] This plan was a happy solution of the problem as its several provisions guarded the Council against a future challenge to the legality of the election and assured each nation that a candidate would be selected who would be satisfactory to them. The decree of the Fourteenth Session was tacitly recognized inasmuch as the Council actually designated the manner, time, and place of the election, while the use of the bi-cameral method of voting, afforded the Council the opportunity not only of giving to the Cardinals their traditional rights in the election of the Pope, for their electoral body must give the successful candidate a two-third vote, but also of securing for the election the unqualified approval of all the delegates, since in the second electoral body the claims of the nations were recognized. Further the plan gave to every nation a certain veto power by which an unacceptable candidate could be rejected. Two days after the acceptance of this proposal, the Council officially ratified it, and, in accord with the request of Sigismund, issued a public decree which embodied the pledges of reform.[13]

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12 Schelstrate, p. 69 in VDH., IV, xi, 1448; Mansi, *op. cit.*, XXVIII, coll. 1165-1166.

13 Brunswick, Leipzig, Gothenberg, Vienna, Dorre, Wolfenbüttel MSS., in VDH., IV, xi, 1452-1457.

Reforms Pledged

The measures of reform proposed in this decree were far-reaching. Conditions were laid down for correcting and, if need be, deposing the Pope; a limitation was set to the number of appeals and cases subject to the curia; and a reform in the offices of Chancellor and the Grand Penitentiary was demanded. A pledge was also made to the effect that the Council would issue regulations affecting the Sacred College in regard to the number, quality, and nation of its future members. A plea was voiced that some provision be made for the maintenance of the Pope and the Cardinals, other than the present arrangement, in the hope that the evils that were then disturbing Christendom might be eradicated. It was proposed to enact measures against the abuses that had caused the most widespread complaint, namely, dispensations from orders,[14] simony, the reservation of benefices,[15] the granting of benefices *in commendam*,[16] the abuses of expectancies to benefices,[17] and the evil practices connected with the granting of indulgences. A readjustment was promised in the matter of the *annates*,[18]

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14 According to canon law, the reception of sacred orders was demanded for the tenure of benefices. For certain reasons, however, *e. g.*, to permit a cleric to continue his studies unhampered, an exception could be made whereby the cleric was *dispensed* from the obligation of receiving orders and was allowed to retain the revenue of the benefice.

15 In certain specified cases the Pope *reserves* to himself the right of collation of diocesan benefices.

16 The holding of more than one benefice by a person was effected through the use of a method common in feudal life, namely, the act of *commendation* by which the owner of a small property surrendered it to the lord and received it back again as a *fief*. In the ecclesiastical sphere the *commendation* gave to one cleric the tenure of a number of benefices *in commendam*, that is to say, he became the overlord of a number of benefices.

17 The *literae expectativae* were Papal interventions in regard to diocesan benefices not yet vacant. The recipient of such a letter received the pledge from the Pope that he would be appointed to a certain benefice as soon as it should be at the disposal of the bishop.

18 As noted already, the *annates* were the revenues of the first year from an ecclesiastical benefice, and were paid to the Papal Curia.

tithes, and the *fructus medii temporis.*[19] Annulment of a number of incorporations of religious houses and of exemptions [20] that had been granted during the schism were requested and a more satisfactory arrangement was urged in the matter of confirming canonical elections.[21]

Opening of the Conclave

By November 8, all was ready for the conclave that was to elect the new Pope. The necessary electors had been chosen by the nations, and the *Kaufhaus* at Constance where the conclave was to be held, had been fitted up to serve its unusual purpose.[22] To guarantee that there would be no interference with the electors, an imperial edict forbade any one, other than the electors, to approach the building after the conclave had gone into session.[23] As the fifty-three electors gathered in the Cathedral before proceeding to the conclave on the afternoon of November 8, they were addressed by the Bishop of Lodi. *In Christi Jesu nomine eligite meliorem,* were his opening words, and after portraying the virtues requisite for the Papacy, he urged them to put all other considerations aside and choose a fitting candidate. In his final plea he besought the electors to choose one "who would console the desolate Church, reform the abandoned clergy, unite dissenting princes, and bring harmony to the whole Christian people." [24] Towards even-

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19 The revenues of benefices during the first half-year of vacancy and which were paid to the Papal Curia were called *fructus medii temporis.*

20 Certain monasteries were *exempted* from episcopal jurisdiction transferred to the immediate control of the Pope. An abuse grew from this inasmuch as the reception of a Papal Brief which declared that a certain monastery was under the protection of the Holy See came to be interpreted as a transfer from the jurisdiction of the bishop.

21 Wolfenbüttel MS., in VDH., IV, xi, 1449-1453. Decree is published in VDH, I, xx, 929-930.

22 Fillastre describes the alterations that were made in the *Kaufhaus. Op. cit.,* p. 157.

23 Dacher, in VDH., IV, xi, 1461.

24 The complete text of the sermon will be found in the Vienna (Caes.) and Brunswick MSS. in VDH., I, xx, 931-945.

ing the electors took up their quarters in the *Kaufhaus* and the doors were closed.

Factions in the Conclave

It was expected that the conclave would be in session for a long period, since it was generally thought that an Italian or German candidate would be opposed by all nations other than his own. Then, because of their national antipathies, it was taken for granted that the French and English delegates were mutually determined to exclude any candidate of the other's nation.[25] The warning uttered by the Bishop of Lodi in his sermon, indicated that there was some fear that the election would be influenced by national sentiments. But here again the nationalism of the Council had over-reached itself. If the election were to be decided on national sentiment, then whatever advantage might accrue to any nation, as a result of the voting arrangement, rested with the Italian delegation. In the Sacred College the fifteen Italian Cardinals gave to their nation practically a two-thirds majority, while in the electoral body of the nations, they had a power equal to the others.

Election of Cardinal Oddo Colonna

As was anticipated, the first scrutiny of votes in the conclave made evident the purpose of most of the electors to secure the Papacy for their own nation if possible. In the early balloting the leading candidates were Cardinals De Brogny, Landulf, Amadeus and Colonna, Robert Reade, Bishop of Chichester and John Bertrand, Bishop of Geneva. But as the election proceeded the conviction grew that the question of choice must eventually be limited to one of the candidates of the south-western nations. The French, according to Dacher, strove strenuously to have one of their own na-

[25] Fillastre, *Gesta C. C.*, Finke, *op. cit.*, II, pp. 151-152.

tion chosen; but, as the English and German electors formed a coalition with the Italians, the French were forced to yield on the third day of the conclave. This coalition resulted in the choice of Cardinal Oddo Colonna, a Roman noble, who received the required two-thirds majority vote in the Sacred College and in each of the nations.[26] As he was elected on November 11, the new Pope took the name of Martin V, in honor of the saint whose feast it was.[27]

Schism Ended

Despite fears to the contrary, the conclave had performed its work within an unexpectedly short period and had selected a Pope; not really a great one, but a Pontiff whom all could respect. As the announcement went out from the conclave that the Roman Cardinal had been elected, Sigismund himself entered the hall and prostrating before the new Pontiff, rendered the customary homage.[28] The news of the election was quickly borne throughout the city and all rejoiced in the realization that, after the long years of schism and the numerous strifes in Council, the Church of Christ was once more united under one uncontested Pope.[29]

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26 Cf. VDH., IV, xii, 1481-1482. Cardinal Fillastre has given an account of the conclave. *Op. cit.*, Finke, II, pp. 157-159.

27 The election is recorded by Cardinal Fillastre: "Est autem notandum, quod, dum fierent accesus, processio generalis concilii et cleri civitatis, in quo erant pueri innocentes civitatis fere IIc in superpelliciis, venit coram conclavi psallendo hymnum: Veni Creator, qui audiebantur in conclavi. Et electores flexis genibus oraverunt et plures ad lacrimas fuerant commoti. Post hec perfectus est accesus et eleccio, ut prescribitur, celebrata. Et vocati sunt omnes, qui de loco recesserunt, electoque stante super altare et electoribus sedentibus resumpta est eleccio omnesque et singuli tam cardinales quam alii singulariter singuli illum elegerunt et petitio ab eo suo consensu humiliter consensit. Tunc omnes secundum suum ordinem venerunt pontificem et persuasum est sibi, pro honore sancti Martini vocaretur Martinus, quod voluit. Deinde descendit et fuit vestitus albis ac socularibus rubeis cum cruce et indutus pluviali et mitra et repositus in altari" *Op. cit.*, II, p. 159.

28 *Ibid.*

29 Dacher in VDH., IV, xi, 1483-1484.

The Papal Coronation

The new Pope was a sub-deacon at the time of his election; it was, therefore, necessary that he receive the orders of deacon, priest, and bishop during the ten days that intervened between his election and the coronation which took place in the Cathedral at Constance on November 21.[30] Though it lacked the touch which the hallowed traditions of Saint John Lateran and Rome might have given it, the coronation of Martin V in the city by the shores of Lake Constance, was not wanting in pomp. When the aged Cardinal of Ostia placed the tiara on the head of the newly chosen Pope there were present representatives of all Europe to render homage. Delegates, ecclesiastical and lay, the Emperor, the electors of the Empire, ambassadors of kings and princes, and the nobles of all nations of Western Europe by their presence added to the pageantry which made the coronation of Martin V almost unrivalled among Papal coronations in the splendour which surrounded it.[31]

Martin V Makes His Profession of Faith

Due to the excitement attendant on the election and coronation, even the claims of the Conciliar party were for the moment forgotten. According to the decree *Frequens,* the Pope was obliged to make a solemn profession of faith, immediately after his election, but at the time this matter was overlooked. It was not until a month later, December 14, that Martin V, in his private chapel, made the required profession of faith, avowing his purpose of adhering to the authority of the first four Ecumenical Councils.[32]

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30 Vienna (Dorre) MS., *ibid.*, IV, xi, 1487-1488.

31 Dacher, in VDH., IV, xi, 1489-1491.

32 Fillastre, *Gesta C. C.*, Finke, *op. cit.*, II, 161.

Attitude of the New Pope Toward Reform

At the first opportunity following his election, Martin V expressed his willingness to institute a reform such as had been demanded beforehand by the Council; but he made it clear also, that the chancery regulations of John XXIII would be the basis of this reform.[33] Since these regulations enjoined only moderation in the matter of permitting vacancies and granting expectancies to benefices, and since the moderation itself was to a large extent dependent on the will of the Pope,[34] it was quite evident, from this first move that the new Pope had no intention of yielding either the rights or privileges of his office. There appeared little likelihood, therefore, that any definite reformatory action would be taken, at least for the present. Even Sigismund now assumed an indifferent attitude towards the enactment of the reform.

New Reform Commission

On the day following the coronation, the nations asked the Pope to begin the reform. In compliance with this request he appointed a commission of six Cardinals and a number of deputies for the nations. This commission met apart to prepare the reform program for the Council.[35]

The Requests of Sigismund and Alphonso

While the commission was discussing matters of reform Sigismund asked the Pope for the privilege of naming two Cardinals. But to this request he received no definite answer from the Pope. He asked also to have the *primariae preces* confirmed upon himself and his successors by apostolic authority. These concessions, if

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33 VDH., IV, xi, 1486.

34 Cf. *Regulae Cancellariae sive Constitutiones Domini Johannis Papae XXIII*, from the Helmstädt MS., in VDH., I, xxi, 954-964.

35 VDH., IV, xi, 1492; Fillastre, *Gesta C. C.*, Finke, *op. cit.*, II, p. 160.

granted, would give to the King of the Romans, on assuming title, the right to grant one prebend and one benefice. The Pope, however, refused this request.[36] At the same time, the delegates of Alphonso of Aragon requested the Pope to remit all revenues due the Papacy from Sardinia and Sicily—then within his dominions—and to grant to the king the possessions of the Knights of Calatrava. They asked further that the king be granted tithes from all ecclesiastical provinces in Sardinia and Sicily, the right of patronage in the same territory, and that he be allowed also to retain all revenues due to the Papacy since the withdrawal of Aragon from the support of Benedict XIII. The last request alone was granted by Martin V and the other matters were taken under consideration.[37] No comment is necessary on the requests made by Sigismund and the delegates of Alphonso to show that the zeal which these two princes exhibited in their demand for a reform in the Church was not entirely actuated by unselfish motives.

Indifference of Sigismund

On January 12, 1418, the French delegates came to Sigismund and asked him to use his influence with the Pope in order to expedite the reform. The French had become disgusted with the bickerings of the commission which Martain V had appointed and saw the utter hopelessness of expecting any acceptable program from that body. The request afforded Sigismund an opportunity to atone somewhat from the defeat he had met with at the hands of the French delegates in the Council. He took advantage of the occasion to fire a Parthian shot at his enemies, by reminding them bitterly that they had sacrificed the one opportunity of reform when the

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36 *Ibid.*

37 *Ibid.*, p. 161.

election had been given precedence.[38] The reply of Sigismund might be interpreted as a disclaimer on his part of any responsibility in the matter of reform; but, as a matter of fact, he had now no personal interest in such enactments, since the issue at stake in the matter of a reform conducted by him had been swept away by his defeat in the election controversy. All that was now left for him was to receive, if possible, the confirmation of his title as King of the Romans.

Election of Sigismund Is Ratified

Though he had been the unanimous choice of the electors of the Empire for the imperial title, Sigismund's right to the title had not as yet received the Papal confirmation which tradition demanded. At the public session of January 19, 1418, he, therefore, besought the Pope to recognize his election as King of the Romans. The Pope did not at once agree, but asked for time to deliberate. Before giving his official answer, he sent word privately to Sigismund urging him to correct certain abuses in Hungary. It is well to note that these abuses which the "reforming prince" was urged to correct, were the granting of a number of cathedral churches in Hungary to laymen and several other churches to schismatic Greeks.[39] Sigismund was compelled to agree to the demand of the Pope in the matter of the abuse of appointments in Hungary, and following his agreement he was, on January 23, crowned King of the Romans by Martin V. On this occasion, much to the displeasure of the German ecclesiastics, the Pope gave to Sigismund tithes in the German Church for one year, as a reimbursement

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38 Gobelinus Persona in *Cosmodromium*, f. 345, cited in VDH., *Praefatio ad Lectorem*, I, xxii, 996-997. Date of petition is given in Lenfant, *op. cit.*, II, 410.

39 Fillastre, *Gesta C. C.*, Finke, *op. cit.*, II, pp. 162-163.

for the expenses which he had incurred during the Council.[40]

Failure of Sigismund's Hopes

Though Sigismund had now the Papal recognition of his claims to the imperial title his position in the politics of the time was in no way enhanced thereby. He had sought to use the Council of Constance as a chance to improve his own position in European politics, but that Council afforded him little reason for pleasant reflections in that respect. His position in the Council was now but a pale reflection of the one he held when he first came to Constance on the memorable Christmas Eve a little over three years earlier. At that time he was acclaimed by all and looked upon as the dominant figure in the Council. Let it be said too, in justice to him, that his painstaking efforts to bring about the assembly of the Council entitled him to all the praise he then received. In the midst of that adulation, however, there was a note of warning sounded by Cardinal D'Ailly who told him of the one Emperor to whom he might be compared and whose example he might with profit follow. It will be recalled that D'Ailly made the comparison between the Council of Nicaea and the part played therein by Constantine and the Council of Constance with the corresponding part about to be played by Sigismund. As an exemplar D'Ailly held up to his imitation the heroic figure of Constantine, who likewise had been instrumental in bringing together the bishops of the world to hold an Ecumenical Council, that of Nicaea, and urged him to render assistance to the Council, but not to interefere in the rights of the Church.[41] But, as we have seen, Sigismund failed to follow this advice and thereby lost an

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40 *Ibid.*, pp. 163. Decree is to be found in Berlin MS., VDH., II, xxii, 594-607. The complaint of German delegates immediately follows, coll. 606-621.

41 *Vide supra*, p. 56.

opportunity to enhance the prestige of the Empire. Had he been satisfied to retire from active participation in the Council once it had been duly convoked, as a far greater prince than he, had done at the Council of Nicaea,[42] the very conflicts of the Council of Constance would have brought him forward as the natural arbiter of the disputes, not of an ecclesiastical nature, which arose.

His Own Ambitions Were Fatal

But from the beginning of the Council Sigismund committed himself to partisan politics and through the ensuing conflicts he became less and less a factor in the Council until, at the end, he was little more than an ornament. As advocate and defender, he had considerable influence upon every measure that was passed during the greater part of the Council; but, in viewing the measures he sponsored and those he opposed, we see in his desires to enact the reform, not so much the earnestness of the zealot as the calculation of the opportunist. His plans for a reform in the Church broke under the strain of national antipathies which the division of the Council into nations fostered, and even in the desire to bring peace among the princes of Europe through the restoration of unity in the Church he was no happier in the result. In this latter instance also his own ambitions defeated him. Despite the national differences that had already flared up in the Council before his journey to France, Spain, and England, he risked the danger of driving the French delegates from the Council by forming an alliance with the invader of their country. This alliance, while it did not effect this result, served to make peace between them and Sigismund impossible. With the signing of that treaty, the star of the Luxemburg

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42 According to Eusebius, Constantine addressed the assembled bishops at the Council of Nicaea at the opening session and at once withdrew. Migne, *Patrologiae Cursus Completus: Patrologia Graeca*, xx, 1061.

prince began to fade. Largely through the influence of the French delegates, his efforts to have the reform legislation enacted before the election were defeated, and that defeat stifled his fondest hopes of restoring the imperial prestige through his own activities in the Council.

Failure of the Reform Commission

In the meantime the Commission of Reform, which Martin V had appointed immediately after his coronation, had been at work; but as the nations could not agree with the Cardinals nor among themselves as to what reforms were wanted and desirable, and the manner of carrying through projected reforms, the commission failed in its purpose.[43] The schedule which they finally presented to the Council took cognizance of the fact that some phases of the needed legislation applied to certain countries only and could be rendered effective only by means of concordats. The schedule of reform, therefore, was divided into two parts, one of which, the general, containing the requests made by all the nations, and another, the particular, which contained the requests which were made by individual countries.

Reformatory Gesture of Martin V

Toward the end of January, 1417, Martin V presented to the nations his own plan for a reform in the curia and requested them to inform him if they were in any way dissatisfied with any of the projects offered.[44] In this plan of reform,[45] the Pope agreed to reduce the number of Cardinals, and promised to select them, insofar as it would be reasonable, from all parts of Christendom. Though he could not agree to surrender the Papal

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[43] Gobelinus Persona, *Cosmodromium*, f. 345 and Schelstrate, *Compendium Chronologicum*, p. 70, in VDH., I, xxii, 996.

[44] "Dedit hanc ideam singulis nationibus inspiciendam, examinandam, si quid haberent amplius, monerent." VDH., IV, xi, 1508-1509.

[45] Proposals of Martin V will be found in the Vienna and Gothenberg MSS. VDH., I, xxiii, 1021-1045.

privileges in the matter of vacancies and benefices since they were needed for the maintenance of the Pope and Cardinals, he promised that no Cardinal would be appointed to a monastery or priory containing over twelve religious, to cathedral or parochial churches, hospices, or hospitals. He promised, moreover, that as soon as matters could be arranged for the support of the Cardinals, they would be released from the benefices now held by them. He agreed also to consult the Sacred College in regard to new appointments and to limit the number of reservations, subject to the Apostolic See, to those acknowledged by law. In reference to other matters which had been discussed by the reform agitators in the Council the Pope gave rather vague answers. The question of correcting and deposing the Pope was swept aside. In regard to the very important question of the collation of benefices, Martin V was unwilling to part with much of the traditional Papal privileges. He did agree, however, to limit the number of expectancies to one benefice, except in Spain where the benefices were so small. Mindful of the almost universal dissatisfaction caused by the arbitrary imposition of tithes on Western Christendom, he agreed that in the future no tithes should be imposed except in case of the need of the universal Church or some other special need, and then only after consulting the College of Cardinals, and the prelates of the particular provinces affected by the imposition. Martin V also waived his own right to the *fructus medii temporis* and agreed to restrict the *annates* to one year, promising at the same time to effect a readjustment in regard to the latter wherever any injustice should be done. He also issued a threat of *ipso facto* excommunication against anyone guilty of simony; and promised to recall dispensations from orders, to curb the abuses connected with indulgences, to insist upon residence for enjoyment of benefices, and to make thirty years the minimum age for the holding of a priory, a parochial

or cathedral church. In the last instance he agreed that an exception could be made with the consent of the Council.

Martin V at Least Gave an Example

Though it is quite clear that in issuing this schedule of reform the Pope made it evident that he had no intention of sacrificing the traditional privileges of his office,[46] he showed at the same time a willingness to make concessions that might have been followed by others.

The Bull *Inter Cunctas*

While awaiting the report of the nations in the matter of their desires for a reform schedule, the Pope took occasion on February 22, to issue the Bull *Inter Cunctas* in which he formally condemned the heresies of Wycliffe and Hus, and the doctrine of Utraquism in Bohemia. This Bull contained a questionnaire for the examination of those accused of professing the heresies which the Pope and Council had condemned; and in its sixth article the query was made as to whether the accused believed what "the Council of Constance, *representing the universal Church,* has approved and does approve in matters of faith and what it condemns as contrary to faith."[47] This statement, of course, has been

[46] Pastor calls attention to the difficulty involved in a departure at this time from the traditional method. "The Pope, he writes, was placed in a most difficult position, in the face of the various and opposite demands made upon him, and the tenacious resistance offered by interests now long established to any attempt to bring things back to their former state. The situation was complicated to such a degree that any change might have brought about a revolution. It must also be borne in mind that all the proposed reforms involved a diminution of the Papal revenues; the regular income of the Pope was small and the expenditure very great. For centuries, complaints against Papal exactions had been made, but no one had thought of securing to the Popes the regular income they required. The States of the Church could only be defended by mercenary troops; the Court and the Cardinals were a cause of great expense, a large outlay was needed for the Legations, and all these things were bound up with the centralized organization of the Church, which no one wished to attack." *History of the Popes,* vol. I, pp. 209-210.

[47] Schelstrate, pp. 190 ff; in VDH., IV, xi, 1518. The Bull is found in the Hagenau MS. in VDH., IV, xi, 1518-1532.

interpreted as a tacit recognition of the superiority of the Council on the part of the Pope. It must be remembered, however, that the Bull itself was issued at a time when the Council was in union with the recognized lawful Pope of Christendom, and also that the formal condemnation of these heresies was given by the Pope despite the fact that the Council itself had already done so.

Demands of the Nations

The reformatory programs of the nations were finally made ready and presented to the Pope. The demands which they presented on this occasion represents the final reformatory endeavor of the Council. Hope for reform had not entirely departed from the Council, but it now remained a hope of desperation. Regardless of what sincerity prompted them, the presentation of these demands actually meant nothing more than the reading of them into the records of the Council. Germany and England presented demands that in the main were similar and which, it is well to note, were to become familiar cries among the Sixteenth Century reformers. Both nations asked that the appointments to the Sacred College be more widely distributed among the nations, a reform in the abuses connected with the bestowal of indulgences and the plurality of benefices, a revocation of all exemptions from orders that had been so freely granted during the schism, and the annulment of all dispensations from residence in benefices. In the last request, however, the Germans would allow an exception to be made with the consent of the Sacred College.[48]

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[48] For German *Avisamenta* see Gothenberg MS., in VDH., I, xxii, 999-1011. The English *Avisamenta* are wanting. Cf. However VDH., *Praefatio ad Lectorem*, I, xxv, 1076.

German Requests

The Germans, moreover, requested that all Papal reservations and collations of benefices be limited to those expressly mentioned in the *Corpus Juris* and that all others be turned over to the Metropolitans, bishops, prelates, chapters, colleges and other patrons. They also requested that the Sacred College be limited to eighteen, or at most twenty-four, Cardinals; and that litigation in the curia be avoided and that the number of cases subject to the curia be limited. They demanded the abolishment of the practice of holding benefices *in commendam,* the preservation of the revenue of vacant benefices for the next occupant, the extirpation of simony, new regulations for the *annates* and the *servitia minuta,*[49] and the repeal of tithes, except such as would be imposed with the consent of the Council.[50]

French Demands

The schedule presented by the French dealt largely with the matter of the *annates.* It was in this matter that the King of France was especially interested and, because of this, his delegates had made a special endeavor to have the Council itself take action in the matter. On one occasion, with ill-disguised threats, they had declared that though their king himself had power to take action in the matter, he had not "as yet" availed himself of this privilege as he wished to leave the matter in the hands of the Church. The French delegates complained also of the *servitia communia,*[51] and the abuses in connection with vacant benefices and the simony involved in securing them as well as the high tax rate

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49 The *servitia minuta* was a small gift which was given to the subordinate officials of the curia on the occasion of the collation of some ecclesiastical preferment.

50 *L. c.*

51 The *servitia communia* was a tax levied upon the recipient of an appointment to a bishopric or monastery. It was received jointly by the Papal treasury and the Cardinals.

imposed upon them. They objected also to the abuse of keeping benefices vacant for no other purpose than to furnish revenue to the one to whom the privilege of the vacancy was given.[52]

The English Concordat

The Pope attempted to meet these divergent demands of the nations by means of a concordat with each one. In the concord at which was made with England, the Pope agreed to prohibit dispensations in the matter of the pluralities of benefices, but preferred to allow the present holders to retain their privileges except where scandal were given. Dispensations from sacred orders for the tenure of benefices were recalled and no dispensations from residence were to be permitted in the future. All unions and corporations effected during the schisms were annulled and, in accordance with a special demand of the English, minor prelates were forbidden to wear pontificals. No action was taken in the matter of indulgences, but it was agreed that anything scandalous should be abolished. In accordance also with a special plea of the English, their nation was promised recognition in curial appointments.[53]

The German Concordat

In the German concordat the Pope consented for the most part to the demands that were made. He acceded to their request in regard to the personnel of the Sacred College and agreed to limit reservations to these recognized by the written law and declared himself satisfied to have the *annates* readjusted where injustice had been done. The Pope also agreed that where there was more than one vacancy in a benefice during a single year, the revenue would accrue to the Papacy on but one occasion.

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52 *Avisamente der Reformatorien*, Finke, *op. cit.*, II, pp. 673-682; Cf. *De Annatis non Solvendis*, in Brunswick MS., in VDH., I, xiii, 761-791. Italy and Spain made no formal request that I have seen.

53 Cf. Cambridge MS., VDH., xxv, 1079-1084.

He limited the number of cases in curia to those which were so recognized by law and custom, excepting, of course, such cases as were presented to the curia by both litigants. He promised also to abolish all of the *commends*, even for Cardinals, and restricted absolution from simony to the *forum conscientiae*, and promised to check the abuses in the matter of indulgences. In line with his own reform he agreed to limit the prerogatives of the Cardinals.[54]

The French Concordat

The French concordat embodied the same regulations in regard to benefices, dispensations, and exemptions as did the concordat with Germany. In the French concordat, moreover, an addition was made to the effect that nepotism in the matter of appointments to the Sacred College would be discountenanced and that all useless appeals would be dismissed at once from the curia. It was agreed too that civil cases would be brought to the curia only with the consent of both litigants. In regard to the much discussed matter of revenues, it was agreed that the Pope, because of the wars in which France was involved, should not receive more than one-half of the *fructus primi anni*,[55] the *servitia communia*, or the *servitia minuta* from churches or abbeys which might be vacated within the next five years. It was agreed, moreover, that the Pope would receive the revenues for no more than one vancancy from a benefice during each year. For the present no action was taken in regard to the abuses connected with the granting of indulgences.[56]

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54 Cf. Brunswick MS., VDH., xxv, 1055-1069.

55 As distinguished from the *fructus medii temporis*, this phase of Papal revenues refers to such benefices as were subject to appointment from the Holy See. It meant that the total revenue of the first year of the new occupant should be sent to the curia.

56 Cf. Paris (St. Victor) MS., in VDH., IV, xii, 1566-1577.

Council Ratifies Concordats

The Council itself had gone on record at the Fortieth Session, October 30th, 1417, when assurance was given that the reform would be instituted following the election of the new Pope, as approving practically all the points of reform that were now demanded by the nations and approved by the Pope.[57] At the Forty-third Session (March 21, 1418), therefore, the Council approved the concordats drawn up on the basis of these demands and at once forwarded them to the rulers of the nations with which they were made.[58]

Concordats a Dangerous Expedient

These concordats were a dangerous expedient at this period as the action of the Pope in thus treating with individual nations in matters of interest to the universal Church, could be interpreted as a tacit recognition of the existence of national Churches within Christendom. But the divisions at Constance made such procedure the only alternative, while the opportunity afforded the Pope to effect through these concordats a reform independently of the Council was not to be disregarded. The day too had passed when an *entente* between the universal Church and the Empire in a matter of reform could be hoped for.

The Last Great Issue

With the concordats approved by the Council, the work of the delegates in the matter of reform was considered as ended for the present. The Council moved on to its close filled to the end with dramatic interest. The last great issue was now presented in the attitude of Martin V toward the pretensions of the Conciliar party. During the five months the Council remained in session after his election, the new Pope avoided any direct conflict

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57 *Vide supra*, p. 157.
58 Lenfant, *op. cit.*, II, vi, p. 211.

with the theories which that party had previously advanced. His position was one that needed all the skill and power at his command, for though he was now the uncontested Chief Shepherd of Christendom, he had already, as a Cardinal, committed himself to theories that were subversive of many of the traditional rights of the Papacy. He now held his powers ostensibly from an electoral college composed of the Cardinals of the three formerly contested obediences, and the accredited delegates of the nations to whom on more than one occasion he had given support and sympathy. Direct opposition, therefore, to any of the claims which they had previously made, involved a disavowal of his own earlier actions. He had been created Cardinal by Innocent VII and at the Council of Pisa had deserted that Pope's successor, Gregory XII, and joined the entourage of the Pisan Pope.[59] At the Council of Constance he was an early sympathizer with the purpose of John XXIII and when that unfortunate claimant fled to Schaffhausen he himself followed shortly after.[60] Returning then once more to Constance [61] he had assisted in the deposition of John.

Attitude of Martin V

But regardless of his former attitude, Martin V now fully realized the powers of the Papacy and was prepared to defend the prerogatives of his office. He realized too that the Council as a unit was itself incapable of opposing him. The divisions of the Council into nations which had been so effectively utilized by the Council at an earlier period to secure a victory over the unfortunate John XXIII, now served to hinder unified action against Martin V. The new Pope need not follow the military

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59 *Ibid.*, II, vi, p. 155.

60 Cerretanus, *Liber Gestorum C. C.*, Finke, *op. cit.*, II, p. 226; Nieheim, *De Vita et Fatis Constantiensibus Johannis XXIII*, Liber. II, cap. xvii in VDH., II, xv, 403-404.

61 *Ibid.*, 403-406.

dictum "divide and conquer" for that, unfortunately for the interests of Christendom, had been too well effected already by the Council itself. Martin V did not have to deal with an organization, but with a group of divergent interests. As for the reform which might aim at some of his privileges, it is well to recall that he had served notice immediately after his election that such reform would come not from the Council itself, but from an application of the chancery regulations of John XXIII. How detrimental was this notice of Martin V to the hopes of those who aspired to reform the Church *in capite et in membris* according to their own theories, may be realized from the fact that the chancery itself was one of the chief objects of reform. Just prior to the election of Martin V, the Council had issued the decree *Frequens,* which in unequivocal terms had insisted on the superiority of the Council in relation to the Pope; but Martin V quietly resumed all authority and without directly antagonizing the Council assumed the prerogatives of his predecessors.

Determined Stand of the Pope

This studied attitude of the new Pope was exemplified in the Bull *Inter Cunctas* which he issued on February 22, 1418. As before noted, there is in the Bull a clear recognition of the Council's right to define matters of faith, but at the same time there is no disclaimer of the traditional rights of the Pope. In dealing with the Falkenberg libel, however, the Pope was forced to abandon this attitude of temporizing and take an unequivocal stand. The Council had, during the previous June, condemned the libel of the Dominican, John Falkenberg, who, on behalf of the Teutonic Knights, had called the King of Poland an idolater and declared that it was more meritorious to kill him than to kill a pagan. Toward the end of February 1418, the delegates of King

Wenceslas asked Martin V also to give his explicit condemnation to the libel; but the new Pope refused to comply with their wishes.[62] When the Poles appealed from the Pope to a future Council, Martin V declared that: "no one may appeal from the supreme judge, that is, the Apostolic See, or the Roman Pontiff, Vicar of Christ on earth; nor may he decline his authority in matters of faith * * * ".[63] John Gerson rightly protested that the condemnation of the appeal of the Polish delegates destroyed the foundations on which the Councils of Pisa and Constance were built.[64] Perhaps, however, this is just what Martin V wished to do in his condemnation. The Pope's fear of offending the Teutonic Knights who had instigated the libel is deplorable, but the refusal nevertheless to recognize the right of appeal to a Council from his decision indicates the tenor of the Pope's mind and explains his attitude toward the pretensions of the Conciliar party. Not only does this incident tend to clarify the declaration in the sixth article of the Bull *Inter Cunctas*, but it is also a disclaimer of the principles embodied in the decree *Frequens*. It may be pointed out, of course, that in accordance with the latter decree, Martain V summoned the Council of Basel just before his death; but, placed in contrast with the declaration of the Pope in regard to the Falkenberg case, the convocation of the Council of Basel carries little argumentative authority in favor of the theories of the Conciliar party. The failure of Martin V to convoke a Council at this time, in view of the need of reform, would have been a manifest exhibition of bad faith on his part.

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62 VDH., IV, xii, 1531.

63 Gerson, *Dialogus Apologeticus*, quoted in VDH., IV, xii, 1532 also in Lenfant, *op. cit.*, II, vi, p. 227.

64 *Ibid.* The *Dialogus* of Gerson is in part an effort to refute these words of Martin V.

Final Session of the Council

In spite of the refusal of Martin V to condemn the Falkenberg libel, the Poles made a final appeal to him at the closing session of the Council, April 22, 1418. Their spokesman on this occasion, Gaspard de Perouse, requested Martin V to condemn the libel and appealed once more to a General Council. He advanced a number of reasons why the proposition should have the additional condemnation of the Pope, and among others adduced the plea that it had already been condemned unanimously by the nations and the Council.[65] This statement was at once challenged by the Patriarchs of Antioch and Constantinople and a Spanish Dominican who declared that their nations—the south-western group—had not condemned the proposition unanimously.[66] In reply to this denial, however, the Procurators of the Italian and Spanish nations questioned the right of the three to speak for them.[67] Paul Vladimir of Cracow arose and demanded that Gaspard be allowed to speak further. But the Pope refused to allow the discussion to continue and enjoined silence on all.[68] He then formally ratified all that the Council had done *conciliariter*,[69] but as soon as the reading of the ratification was ended Paul Vladimir again arose, this time to read a memorial, in the name of the King of Poland and the Duke of Lithuania, in

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65 Lenfant, *op. cit.*, II, vi, p. 245; Wolfenbüttel MS., in VDH., IV, xii, 1555-1558.

66 Lenfant, *l. c.*

67 *Ibid.*

68 *Ibid.*, pp. 246, VDH., *op. cit.*, IV, xii, 1557-1558.

69 After silencing the tumult of the Polish delegates Martin V declared: "quod omnia et singula determinata in materia fidei per praesens sacrum concilium generale Constantiense *conciliariter*, tenere et inviolabiliter observare volebat et nunquam contravenire quoquomodo. Ipsaque sic *conciliariter* facta approbat Papa, omnia gesta in concilio conciliariter circa materiam fidei et ratificat, et non aliter, nec alio modo." Leipzig MS. in VDH., IV, xii, 1557-1558.

David Schaff remarks that "it would seem that according to Martin V's words in adjourning it [i. e. the Council], the Roman Pontiff has the right of determining the value of each of these decrees by itself." *Op. cit.*, p. 268.

which an appeal was made to the next Council. The Pope at once imposed silence on him under threat of excommunication.[70]

Reform Is Postponed

Following the general absolution to all delegates at the Council, which was given by the Pope, the Council was dissolved or, as many of the delegates thought, merely adjourned, to meet seven years later. Much to the disappointment of the French delegates who wished to have the next Council held in France, Pavia was selected as the meeting place.[71] Since it had been impossible to take decisive action in the matter of the general reform at the Council of Constance, it was thought best to defer action in the matter to the next Council.[72] It was hoped that in the meantime the particular reforms could be effected by means of the concordats between the Pope and the temporal rulers.

The Departure from Constance

After formally dissolving the Council, Martin V prepared to leave Constance. Despite the importunities of Sigismund, who wished him to remain in one of the imperial cities—Constance, Basel, Mayence or Strasburg, and of the French delegates, who wished to have him renew the Papal residence at Avignon, the Pope determined to go at once to Rome.[73] On Whit Monday, May 16, 1418, he began his long journey to the capital of Christendom.[74] Wars in the Italian Peninsula as well as the dangers from roving bands of the "free companies" that throughout the period had kept the Papal States in a condition of chaos, served to prolong the journey.[75]

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70 Lenfant, *op. cit.*, II, vi, 246.

71 Brunswick, Leipzig, Vienna (Dorre), and Wolfenbüttel MSS., in VDH., IV, xii, 1546-47. Mansi, *op. cit.*, XXVII, 1195-1196.

72 Cf. VDH., *l. c.*

73 VDH., IV, xii, 1580; Platina, *Vita Martini V*, quoted in VDH., *l. c.*; Pastor, *op. cit.*, vol. I, p. 210.

74 Vienna (Dorre) MSS., in VDH., IV, xii, 1582.

75 Lenfant, *op. cit.*, II, vi, 258-259.

The Journey Toward Home

At Florence, where he remained for a time, Martin V received the suppliant Baldassare Cossa, who had been allowed to escape from his prison at Heidelberg. The erstwhile John XXIII was treated with every mark of kindness and was received by the Pope into the Sacred College.[76] The mildness of Martin V in dealing with the former claimant to the Papacy, whether due to policy or generosity, effectively erased the last vestige of claim that might be advanced for the Pisan succession to the Papacy. Shortly after the interview at Florence, Baldassare Cossa died and was buried at Florence.[77] In dealing with the Canon of Barcelona, Aegidius Muñoz, whom the remaining partisans of Benedict XIII had selected to perpetuate the succession of their master, Martin V was similarly generous and was thus able to remove the last lingering claimant of the Avignon Line. The stubbornness of Peter de Luna was not exemplified in his "successor," for the latter laid down his claims at the end of five years (1424-1429) and as in the case of Baldassare Cossa was shown every kindness by Martin V, being appointed Bishop of Majorca.[78] It was not until September 30, 1421, that the Pope was able to enter the Eternal City bringing once more a unified Papacy to its rightful home.[79]

Sigismund After the Council

The other actors in the great drama of Constance went from the scene of their greatest labors with varying emotions. Sigismund, at his solemn farewell to the Council, could hardly restrain the bitterness that welled up from his heart. He promised to defend the decrees of the Council, but disclaimed all responsibility for any

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76 *Ibid.*, pp. 260-261.
77 *Ibid.*, p. 261.
78 Cf. Pastor, *op. cit.*, vol. I, pp. 274-277. Footnote, p. 277.
79 *Ibid.*, vol. I, p. 214.

faults that the Council may have committed.[80] Disappointed in the high hopes that the Council of Constance had held out to him, he now turned to his own kingdom of Hungary, to defend it against the incursions of the Turks and to the hopeless task of enforcing his claim to succeed Wenzel in war-torn Bohemia.

Cardinal D'Ailly

Cardinal D'Ailly, the great opponent of Sigismund, could look back to the Council with some satisfaction in the realization that he had played a vital part in the restoration of unity to the Church. But he could also look back upon the revolutionary measures which the Council had approved and in which he played no small part. In his own lifetime he was not to realize the extent to which the theories which he had advocated at the Council might tend. Following the Council of Constance he was made Legate to Germany by Martin V. He died in this office in 1425[81] sorrowing over the loss of many of his dearest friends and because of the ravages of the French civil war and the plight of his former pupil and lifelong friend, John Gerson.

John Gerson

The courageous stand which Gerson had made in the case of Jean Petit made it impossible for him to return to his native France. There the Duke of Burgundy was in power, so Gerson went instead to Bavaria where he remained until the death of the Duke.[82] Gerson, like D'Ailly, could rejoice in the restoration of unity in the Church, but more perhaps than any other did he realize the plight in which Christendom was left as a result of

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80 Lenfant, *op. cit.*, II, vi, 247-248.

81 Cf. *Vita* in VDH., II, viii, 479-480.

82 Lenfant, *op. cit.*, II, vi, 256; VDH., IV, xii, 1583; Masson, *Jean Gerson, etc.*, pp. 300, 317, 369, 391.

the failure of the Council to realize all its purposes. Toward the end of the Council he had declared that the desire to end the schism had allowed the acceptance of many things which otherwise would be intolerable, and viewing the results that had been effected by the Council, he reflected that the reform could never be enacted through a Council until one could be held under the presidency of a well disposed and prudent leader.[83] Surely he must have realized the hopelessness of looking for such a leader at this time, either in the Chair of Peter or among secular princes. It was with a heavy heart and in bitter disappointment over the failure of the Council that he went into exile. After the death of the Duke of Burgundy Gerson returned to France where, eleven years after the close of the Council, he died in the convent of the Celestines at Lyons of which his brother Nicholas was Prior.[84] Had others the disinterestedness of Gerson, a substantial reform might have been enacted at Constance.

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83 *Dialogus Apologeticus* quoted in VDH., Introduction IV, i, 3-4.

84 Lenfant, *l. c.*

CHAPTER VI.

EFFECT OF NATIONALISTIC SPIRIT

The Council a Failure

The great Council of Constance, of which so much was expected, had adjourned. Despite its power and resources, which had promised much, it is difficult to point out one thing which it accomplished by moral force. From the first, the Council depended, in a large measure, on the power and prestige of the temporal princes, who were personally interested in it. Hence it is not surprising that, in attempting to carry out its purposes, the Council found that practically its only asset was the imperial sword.

Accomplishments of the Council

In summarizing the results effected by the Council of Constance,[1] we may note that in the matter of restoring unity to the Church, John XXIII was driven to submission in abject fear after being forcibly deposed. Benedict XIII, though likewise deposed after all secular support had been withdrawn from him, maintained to his death a claim to the Papacy. Gregory XII had willingly resigned, but he was undoubtedly ready to do so at any

1 On April 3, 1417, Matthew Grabon, a Dominican of Merseberg was forced to abjure his radical views on the religious life. He maintained that the three vows could be kept and poverty properly observed only in the religious life. He declared also that no merit could be gained by one practicing poverty outside the religious life; that no one could leave all things for Christ and remain outside the religious state without committing sin; and that it was illicit for priests to lead the common life unless they resided in a religious community. D'Ailly and Gerson refuted these propositions before they were condemned and abjured. Cf. VDH., III, viii, 106-119; IV, xii, 1544; abjuration *ibid.*, III, viii, 118-121.

time, regardless of the Council, were he once convinced that such action on his part would guarantee the restoration of unity. In attempting to root out heretical teachings, Hus and Jerome of Prague were condemned and put to death, an action in part turned over to the secular arm. In the case of Jean Petit the Council found the secular arm in sympathy with the heretic and nothing beyond a general condemnation, that need not apply in the particular case, was forthcoming.

Reform Left Unattended

In its third purpose, namely, *reformatio in capite et in membris,* the Council of Constance was a failure. It needed no Council to discover the abuses in ecclesiastical life that were prevalent at that period; but a Council as representative of Christendom, as was that of Constance, afforded a golden opportunity to correct them. The point we make here is that such abuses as simony, the plurality of benefices, the practice of holding benefices in expectancy, the lack of a proper understanding in the matter of *annates,* the moral condition of the clergy, and the abuses connected with the bestowal of indulgences—to mention only a few—were brought to the attention of the Council of Constance and to all intent and purpose were tabled until the next Council. What a Council, such as Constance, might have accomplished, we can realize only with sorrow as we look ahead to the Sixteenth Century revolt and the excuse which such unremedied conditions would give to the "reformers."

D'Ailly's Warning Unheeded

It will be recalled that D'Ailly[2] had warned the Council that the time was coming when the Church would be compelled to face even greater evils, should the reform be neglected at the Council of Constance. But it is doubtful if even he, far-sighted as he was, appreciated

2 *Vide supra,* p. 102.

the full possibilities of such neglect. His plea, as we know, went unheeded and the Council, which might have provided sufficient moral force to institute a far-reaching reform, failed lamentably to do so because too many of the delegates thought of themselves and their country first and made the interests of the Church a secondary consideration.

Significance of Failure

At this particular epoch, owing to the wide credence which the theories of the Conciliar party received, a General Council represented to the leaders of Europe, the supreme power of the Church universal. In regard to the Council of Constance, because of the manner in which western Europe was there represented, this conception of Church sovereignty afforded that Council an unusual opportunity of acting as a channel for a reformation within the Church. Had the Council been able to issue the desired reformatory decrees in the name of the Sovereign Pontiff, and had these been strengthened by the moral support of what, as a representative assembly, was up to that time the greatest gathering, ecclesiastical or political, that Europe had witnessed, it is safe to assert that few princes or ecclesiastics would have had the temerity to oppose them. The one moral force that might have availed at this time was the solid unity of the episcopate in Council assembled, which regardless of national differences or interests, would lend its strength to the endeavors of the Sovereign Pontiff.

Penalty of National Ambition

If the delegates had but realized that their sole purpose at the Council was that of witnesses of tradition in virtue of their sacred office such unity at the Council would have been assured; but when they accepted the theory that they were also national representatives and submitted to the division of the Council into nations that unity became practically impossible. This method

of voting, it will be recalled, was accepted on the ostensible plea that it would expedite the work of the Council; but, since it furnished an opportunity to give full play to national antipathy and distrust, it was in reality a great hindrance to real legislative action. In the end it proved more of a liability than an asset to the Council.

Responsibility for the Neglect

It is idle to attribute the neglect of reform to the delay occasioned by the removal of the three claimants to the Papacy, the condemnation of the heresies of Wycliffe, Hus, and others, or to the enforced legislative idleness of the Council for a period of eighteen months due to the absence of Sigismund. The difficulty of settling the claims of the three rival Popes could have been dealt with effectively within six months after the opening session, had it not been for quarrels among the delegates and the long delay caused by Sigismund's diplomatic endeavors in France and England. The matter of condemning heresies need not have occupied as much time as it did, were it not for the fact that in their condemnation, the Council sought to advance its own superiority. The absence of Sigismund, the bitter quarrels attending the dispute over the matter of the election and reform might have been avoided, and following the election, the new Pope would have had to deal with demands for reform emanating from a united Council. But as matters were, Martin V found himself faced instead with the varied complaints of national groups requesting such divergent reforms that he was compelled to adopt the expedient of dealing with each country separately. Once the election was accomplished, the delegates became anxious to leave the scene of the Council as quickly as possible, and there were few, if any, voices dissenting to the proposal to defer the general reform to the next Council. Thus the

Council of Constance was allowed to pass into history, for the most part, a failure.[3]

Concordats Are Futile

The one reformatory effort that the Council of Constance made through Martin V, namely, the concordats between the Pope and the nations might well have never been made. It was futile to hope that these concordats could be in any way effective, since the princes of Europe in the main hardly desired a real reform. They might raise a cry against Papal exactions; but in their own territories there were abuses, such as royal appointments to ecclesiastical positions, for which they were personally responsible and which they made no attempt to correct.[4] Their zeal for reform terminated in the demand that the revenues that went from their own territories to the Papal court should be lessened or abolished and their chief concern was to secure the annulment or at least some diminution of the *annates*. They desired, moreover, to be the leaders in any reform that might take place in their territories and were determined that such reform would be, if possible, advantageous to themselves.[5] Despite the fact, therefore, that the concordats had been approved by a Council at which they were adequately represented, the princes refused to accept them.

Germany Repudiates the Concordat

The German princes could not, of course, even if they would, take any action in regard to their concordat, for wars and seditions in the Emipre made unified action impossible. They regarded the concordat, moreover, as

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3 Cf. Schaff, "The Council of Constance, Its Fame and Its Failures," in the *Papers of the American Society of Church History, vol. VI* (new series), pp. 43 ff.

4 We have already seen in the Council itself that princes such as Sigismund and Alphonso of Aragon sought even to enlarge these encroachments.

5 Richard, P. "La Monarchie Pontificale," in *Revue d'Histoire Ecclésiastique, vol.* xx, pp. 442-443.

merely a compact between the Pope and German ecclesiastics, and felt that they themselves were in no way bound to support its provisions.[6]

France Also Rejects Its Concordat

The French concordat was actually rejected before it reached France, and in June, 1418, the *Parlement* of Paris formally refused to accept it. Though it is evident that the provisions of the concordat could not be made effective because of civil strife in the kingdom, it also appears as quite certain that it was rejected because it more or less opposed "the liberties of the Church of France" and because of the embitterment of Charles VI over the failure of the Council to condemn Jean Petit.[7] The French king not only expressed his displeasure with the concordat, but demanded also that the collation of benefices be dealt with in accordance with edict of 1407 which made him the principal factor in their distribution. He forbade, moreover, the exportation of money from his realm either as *annates* or taxes.[8]

England Likewise Refuses

The English nation refused to take any notice of its concordat. Lenfant gives as a reason for this refusal, the disappointment of the English over the failure of the Council to enact the desired reform.[9] It can hardly be said, however, that the English princes were helping the eventual realization of that desired reform, when they refused their support to the concordats which might have at least been the preliminary step to that end. Despite

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6 Lenfant, *Histoire du Concile de Constance*, II, vi, 270.

7 *Ibid.*, 253, 266-270.

8 Cf. Creighton, *History of the Papacy during the Period of the Reformation*, vol. I, pp. 253, 413; vol. II, p. 198. Five years later Martin V endeavoured to have Charles VII remove this edict of his father, but was unsuccessful. Cf. *Chartularium Universitatis Parisiensis*, vol. IV, pp. 341-343.

9 *Op. cit.*, II, vi, 269-270.

the urgent pleas of the Pope, Archbishop Chicheley of Canterbury refused to aid in securing the agreement of England to the concordat.

Other Nations Are Opposed

Poland, resentful over the manner in which Martin V rejected the appeal in the Falkenberg case, refused to accept the concordat under any conditions.[10] In Hungary, Sigismund was too busily engaged in uniting the forces of that country against the Turks and in carrying his power into Bohemia to give much thought to the concordat.[11] In Spain, the King of Aragon, disappointed in his quest for benefices in Sicily, not only refused to accept the concordat, but began openly to support the moribund Benedict XIII.[12]

Was the Reform Wanted?

In viewing the attitude which the princes of Europe took toward their respective concordats, it may be said that the concordats, except in so far as they served to tear the mask of pretence from royal "reformers," were practically useless. The action which the princes took in their regard, as well as the neglect or evasion of the reform at the Council itself, leads us to ask if the history of the Council does not justify the doubt that reform was seriously desired in some quarters. We might face the question squarely as to whether the Council itself, or the temporal rulers, or the Pope, were really desirous of the sweeping reforms which had been discussed at length from the time of the opening session until the Council was dissolved.

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10 *Ibid.*, 273.
11 *Ibid.*, 273-274.
12 *Ibid.*, 264-266.

Did the Council Desire It?

As for the Council itself, we may say without fear of contradiction, that in so far as it gave expression to the voice of Christendom it was sincere; but, as we have seen, there were even among the zealots of reform, a number who were not without self interest, and some who might well have begun the reform by correcting themselves. It must be remembered that, as the Western Schism had lasted forty years, practically every bishop at the Council of Constance had been appointed to his office by one of the contending Popes or through the influence of a secular prince interested in the cause of one of the claimants. Nor should it be forgotten that in many instances these selections were determined, to a large extent, by the power and influence they might add to the party of the claimant who had installed them in office. Such ecclesiastics would naturally be interested more in their own advancement than in the needs of the Church. Hence it was only to be expected that they would hold tenaciously whatever privileges they had secured as a result of the schism and would be none too ready to enact a reform, which, if effective, must begin with themselves.[13]

Delegates Should Have Reformed Themselves

That the members of the Council should have begun the reform with its own members, was noted in the Council itself, as is rather clearly evident from some of the sermons that were delivered at the Council. If we are to draw any conclusion from the sermon, for instance, of January 12, 1416, it is just that fact.[14] During that same

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13 "Few, perhaps, lacked good will, but all lacked courage to begin the conflict against the network of interest which covered all the ground. If the work were once seriously undertaken, it was hard to see where it might end," Phillips, *Kirchenrecht*, vol. I, 20 (quoted in Pastor, L., *History of the Popes*, vol. I, p. 204).

14 The author of this sermon is not known. Cf. *Sermones Concilii Constanciensis* Finke, H., *Op. cit.*, II, pp. 426-428.

year, on August 9, Andrew Escobar, a Benedictine Bishop, urged the delegates in unequivocal language to take such measures. "Reform yourselves first and give an example to others," he said, "so that they may do as you do."[15] On August 23, Theobald of Saxony, a Dominican, in another sermon spoke in the same strain.[16] Perhaps the worst denunciation, however, which the members of the Council received took place in the sermon which Bernard Baptiste, a Benedictine of Gascony, delivered on August 22, 1417. On this occasion the preacher spoke on the Gospel of the day, the parable of the *Pharisee and the Publican,* and, probably because there was some likelihood that the election would take place in the near future, took advantage of the opportunity to warn those to whom the election might be committed not to choose any of the "Pharisees" among those present at the Council. He complained bitterly of the pharisaical attitude of many of the members who, although they were talking much of reforming the Church, could seldom be induced to attend the daily services at the Council.[17]

The Temporal Princes Were Not Sincere

In regard to the temporal princes, it seems sufficient to point to their rejection of the concordats to show that their purpose of reform was not so much to correct real abuses existing in the Church, as to change, if possible, the government of the Church itself. Had they been really desirous of reform, the acceptance of the concordats by them would have at least furnished a satisfactory basis on which to build further change. At the Council itself, the delegates, acting as the representatives of royalty, accepted these concordats as the only hope for at least a temporary reform. But at home, the princes repudiated them. We say the princes, for although the

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15 *Ibid.*, pp. 455.

16 *Ibid.*, 461; Helmstadt MS., in VDH., I, xix, 898-911.

17 Helmstadt MS., *op. cit.*, I, xviii, 879-893; *Sermones, op. cit.*, II, p. 506.

channel of repudiation may have been a parliament or diet these institutions now meant little in popular representation. It is well to note, moreover, that a source of much evil existing at the time was due to the interference of temporal princes in spiritual affairs. Were they, therefore, at all sincere in their expressed desires for reform, they might have given a far reaching example by surrendering their own unwarranted claims.

Martin V Did Not Want the Conciliar Reform

Nor can we say that Martin V was willing to meet the desires for reform as expressed in detail by the Council. It must be added, however, that were he to accept all that the Council had proposed for the *reformatio in capite et in membris,* he would have had to concede some traditional rights of the Papacy. Though it may be said that the Pope was guided to some extent by self interest; it is also evident that what he insisted upon were his traditional rights. He had, at least, set an example to others in his promise to reform the curia and while the proposals contained in his declarations did not altogether meet the requests of the Council, yet when all circumstances of the time are considered these proposals were in a measure liberal. If he was careful in the concordats to retain certain Papal privileges, he was also, in comparison with his predecessors of the previous century, rather generous in his willingness to sacrifice others. That he as well as others, recognized the need of reform and his own responsibility in the matter is quite evident. But to attribute his failure to institute a reform entirely to bad faith or indifference on his part, is hardly warranted.

Position of the Papacy

In the first place the Papacy in his day had lost much of its moral prestige and, as the necessity of separate concordats testify, the Pope could not deal with Chris

tendom as a unit should he attempt to institute a general reform. It should be noted also that reformatory decrees from the Roman Pontiff could effect little now, for the Papacy had not the influence of former days and any suggestion of Papal interference even in ecclesiastical matters was at once resented and aroused national opposition. Answering then the question as to whether the reform as proposed throughout the various sessions of the Council of Constance was actually wanted, we can only conclude that neither the delegates, nor the temporal princes, nor the Pope would at this time accept a reform except in so far as it did not interfere with their conceived rights. The delegates would tolerate nothing that was antagonistic to national interests; the princes refused to surrender any of their selfish claims in ecclesiastical matters; and the Pope could not make the sacrifices demanded by the Council.

The Other Questions

Although the other questions that were expected to be discussed and settled at the Council of Constance, namely, the relations between Church and State, between the individual and the Church, and between the individual and the State, as well as the question as to whether the traditional claim of the Church to the loyalty of her children could withstand the claims now made by the national state, were not discussed *ex professo*, nevertheless the history of the Council justifies certain conclusions in their regard. The other possibilities which the great assembly was thought to possess; that of restoring unity between Western and Eastern Christendom and peace in Western Europe need not be discussed. The divisions which the delegates of the Eastern Church found at Constance were hardly an inducement to them to consider the possibility of a greater unity. As for restoring peace to Western Europe, it may be said on the contrary that if anything the Council did much to

prevent peace. Certainly the Council did not bring about a more amicable feeling between England and France, but, if it were possible, made them more hostile. The civil wars in France, moreover, now grew more intense. No relief was given Hungary in its efforts to hold back the assaults of the Turks, and, in spite of the admonitions of the Council, the Teutonic Knights continued their depredations in Poland and Lithuania. In Bohemia, before the end of the Council, the followers of John Hus had already begun to wage the sanguinary conflict that was to devastate that country and practically destroy all hope of immediate reconciliation between the Church in Bohemia and the Church universal. In the Empire civil strife had not abated, and Italy still seethed with war and pillage.[18]

Church and State

In the matter of the relations between Church and State, the Council of Constance went on record as granting to the temporal power prerogatives which had hitherto been solely the possession of the spiritual power. This was clearly evident from the fact that, on the occasion of the flight of John XXIII, the Council accepted the theory that the convocation by Sigismund was of itself sufficient, and also from the practical acceptance by the Council of the theory that representation in Council was based on territoriality rather than spiritual jurisdiction.[19] It may be noted also that although the Council on January 24, 1416, accepted the decree of the Emperor Charles IV on ecclesiastical liberties,[20] nevertheless, when a conflict arose between the claims of the temporal prince

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18 Lenfant, *op. cit.*, II, vi, 264-274.

19 In accepting the proposal to register votes by national groups rather than in the traditional manner.

20 Vienna (Dorre) MS., in VDH., IV, viii, 561-573; cf. *Constitutio Carolina de Libertate Ecclesiastica, ibid.*, 523-525.

and those of the Church, the Council on more than one occasion sided with the prince.

Individual and Church

In regard to the relation between the individual and the Church, it might be said that the Council of Constance amply demonstrated that local representation *per se* has no place in an Ecumenical Council of the Church. It is, moreover, idle to talk of the Council of Constance as affording the individual an opportunity for expression, since the method of voting which was adopted in the Council made the General Session no more than a body to ratify what had been agreed upon by the nations. Thus the group was successfully substituted for the individual. It should not be forgotten, moreover, that despite the theories of popular representation that had been advanced before the Council, the delegates at Constance were not representatives of the people, but of royalty. It may, of course, be argued that the leaders of the Council claimed to be acting as representatives of the Church universal, but we know that the German group followed the dictates of Sigismund, the English delegates were under instructions from their king, while the French followed the dictates of the King of France or the Duke of Burgundy according as they were representing either.

Individual and State

In the matter of the relation between the individual and the State, this much may be said: the Council of Constance in its last analysis in so far as it touched the question at all, declared by its actions that the sovereign power in the state was vested in the prince whom the delegates represented. Lastly, in regard to the matter of loyalty to Church or State, it need hardly be pointed out

that throughout the Council the interests of the Church were made to a great extent subservient to the interest of the national State.

A Great Failure

But over all these considerations was the failure of the Council of Constance in the matter of reform, a failure for which the Church was to pay dearly. The delegates left the city of Constance at the end of the Council thinking perhaps that the coming Council at Pavia after seven years would present a better opportunity of legislating the reform. Such appears to be the note which the sermon at the final session stressed. The preacher on this occasion, John de Podio, Bishop of Catania—a former General of the Dominicans—chose as his text the words which Christ spoke at the Last Supper: "Now indeed you have sorrow; but I shall see you again and your heart shall rejoice" (John xxvii, 22).[21]

Likely, as Lenfant[22] suggests, the preacher wished the delegates who were about to leave Constance, to look forward trustfully to the next Council in the hope that then their desires for reform would be realized. But what promise could a future Council hold? Events were to prove that if the delegates entertained any such hopes, they were doomed to disappointment. The great Schism, which for so many years before the Council of Constance divided the allegiance of the faithful, had frustrated all efforts at reform; now the greatest assembly of Christendom recorded an almost total failure in that regard. In the wake of such a failure it became difficult to realize that the Church contained within itself the powers of self-reformation. From the Council of Constance the Church went forth ill prepared to meet the difficulties of the Fifteenth Century. The Papacy now faced the flood

21 Leipzig MS., in VDH., IV, xii, 1557.

22 *Op. cit.*, II, vi, 247.

tide of nationalism with the consciousness that it lay in the power of secular princes to renew the awful schism. At Constance, the conciliar theories of the Fourteenth Century had received the stamp of approval and as far as European politics were concerned, had become accepted facts.[23] Added to this, the Council of Constance had placed these theories on such an eminence that the Popes of the Fifteenth Century might well be fearful of renewing the contest with the Conciliar party. That such a fear was not groundless, the schismatical Council of Basel (1431-1443) bears eloquent testimony.

Extent of the Failure

Had there been at Constance a united Council, one that could for the time submerge all national differences, the Fifteenth Century, as well as the centuries that immediately followed, might now present to the historian a picture in many respects different from that which he is forced to look upon. The Catholic historian especially views the opportunities of the Council of Constance and realizes with regret that the very complaints, of which Luther was to make such effective use in forwarding the Sixteenth Century revolt, were patent at the time of that Council and were officially recognized in its sessions,[24] but remained uncorrected. Following the Council of Constance he sees the Papacy reach even a more unfavorable position because of the affiliation of some of the Popes to the flowering Renaissance,[25] and he is compelled to view abuses within the Church growing worse, until they could be used by Luther as a pretext for revolt. He cannot but notice that the very requests

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23 Figgis, "Politics at the Council of Constance" in *Transactions of the Historical Royal Historical Society* (new series), vol. xiii, pp. 103-115.

24 Cf. German *Avisamenta* in Mansi, *op. cit.*, XXVIII, coll. 362 ff.

25 Cf. Schaff, P., *The Renaissance, passim;* Richard, "La Monarchie Pontificale, etc." in *Revue d'Histoire Ecclesiastique,* vol. xx, pp. 441-442.

that were made at Constance by the nations especially the Germans,[26] could have provided the main planks of Luther's platform.

The Lesson

If the contrast is drawn between Constance and other Ecumenical Councils, and if this contrast teaches any lesson, there is manifest a warning of the price of nationalism in ecclesiastical affairs. It may, in fact, be said that, among Ecumenical Councils, that of Constance alone must bear the reproach of having failed to carry out the primary object for which it was convoked, namely, the restoration of unity in the Church and the legislating of needed reform, and this because it was a slave to current theory and ambition, thus promoting division rather than unity. Then too the *vote by nations* at the Council of Constance made it comparatively easy to exalt the supremacy of the Council from the expediency of ending the difficulties of the Western Schism to an accepted fact for all future opponents of the Papacy.[27]

A Mistaken Notion of the Council of Constance

Though many modern writers see in the Council of Constance a demonstration of democracy, they do not fully explain the fact that this Council contributed materially to the restoration of autocracy in Europe. Certainly, if we are to judge the political effects which the Council of Constance produced or demonstrated, the verdict must be that this great gathering did, in fact, further the pretensions of absolutism. The march of autocracy, which had been gathering headway during the Fourteenth

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26 Cf. Gothenburg MS., in VDH., I, xxii, 999-1011 and *Canones et Decreta Sacrosancti Oecumenici Concilii Tridentini*, cf. Decreta de Reformatione Sess. vi, xiii, xiv, xxi, xxv, pp. 32-201.

27 It may be noted that at the Council of Trent, the suggestion to vote by nation was at once turned aside. Cf. Lenfant, *op. cit.*, I, xxvi. Preface, and Hefele-Leclercq, *op. cit.*, vol. I, p. 96.

Century was not only uninterrupted by the Council of Constance, but, if anything, it was given a further impulse. On the other hand, though the Conciliar movement recoiled after the debacle of its hopes at the schismatical council at Basel, the Papacy was not left unhampered. Through the Fifteenth Century there was a steady advance toward a diminution of the Papal authority in national states and concomitant with it, a definite retrogression toward princely absolutism. Europe thus became a society in which the absolutist theories of the Fourteenth Century could be given practical expression [28] and the realization of popular sovereignty was thereby delayed until three centuries later. Not the least of the factors which contributed to this situation in the political life of Europe, was the Council of Constance itself, inasmuch as the spirit of nationalism which that Council fostered was a potent agency in the intrenchment of monarchic rule.

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28 Cf. Dunning, *op. cit.*, pp. 285-286.

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DEUS LUX MEA

THESES

QUAS

AD DOCTORATUM

IN

SACRA THEOLOGIA

Apud Universitatem Catholicam Americae

CONSEQUENDUM

PUBLICE PROPUGNABIT

GEORGIUS CORNELIUS POWERS

SACERDOS MARYKNOLLIENSIS

S. THEOL. LICENTIATUS

HORA IX, A.M. DIE VI IUNII A. D. MCMXXVII

Universitas Catholica Americae
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No. 27.

I.

The fact that some temporal princes aided in the material convocation of Ecumenical Councils offers no ground for the assertion that the Church ever abdicated its exclusive right of formal convocation.

II.

The twenty-eighth Canon of the Council of Chalcedon, which deals with the Primacy of the Bishop of Rome, cannot be taken as an argument against the Petrine succession of the Papacy.

III.

The Councils of Pisa (1409-1410) and Basel (1431-1439) cannot be considered Ecumenical.

IV.

The theory of the "Divine Right of Kings," though it may have been asserted during the conflict between the Empire and the Papacy, never became an element of Catholic political philosophy.

V.

Had it not been for the politico-religious issues involved, a settlement of the Great Western Schism would not have demanded the convocation of an Ecumenical Council.

VI.

A logical consequence of the doctrines of Wycliffe on the matter of ecclesiastical polity was that the sovereignty of the Church emanated from God through the body of the faithful.

VII.

The *Fraticelli* movement was a perversion of the Christian principle of evangelical poverty.

VIII.

As conceived by Marsiglio of Padua an Ecumenical Council of the Church was a Parliament of the Nations possessing jurisdiction in temporal as well as ecclesiastical affairs.

IX.

The tendency towards absolutism in government, which was so strongly manifested by the nations of Western Europe during the fourteenth century, may be attributed, in large measure, to the revival of interest in the study of Roman Law.

X.

The politico-ecclesiastical principles of William of Ockham, in their application to a General Council, were a direct challenge to the sovereignty of the Papacy.

XI.

The aggressions of the secular authority in the matter of ecclesiastical appointments contributed powerfully to the decay of ecclesiastical life during the later period of the Middle Ages.

XII.

Although Emperors and secular princes and their representatives have been present at Ecumenical Councils, they never received the privilege of casting a definitive vote in Council.

XIII.

The policy and purpose of many of the bishops and of all the "Nations" at the Council of Constance bring into clear light the inner purposes of the Conciliar Movement.

XIV.

The discrepancy between the policy and principles of the Papacy and the objects which the "Nations" sought to attain are clearly shown in the struggle regarding the *annates.*

XV.

The policy which governed a large number of the bishops at the Council of Constance was clearly a manifestation of the principles of such men as Marsiglio of Padua, and William of Ockham.

XVI.

In supporting Louis of Bavaria the *Fraticelli* were not influenced so much by a conviction of the validity of Louis' claims as by opposition to the Papacy.

XVII.

The numerical superiority of the Italian bishops at the Council of Constance was due to purely historical reasons, not to any desire to favor one nation at the expense of others.

XVIII.

The voting by nations at the Council of Constance tended to place legislative power in the control of a small group rather than to promote a wider representation of Christendom.

XIX.

The co-operation of the Emperor Sigismund at the Council of Constance aided materially in terminating the Great Western Schism, but his political and personal ambitions frustrated the reform movement.

XX.

The arguments used by the French and the English delegates on the subject of voting at the Council of Constance exhibit the utterly erroneous conception they had on the nature of the Council.

XXI.

Viewed from the standpoint of political progress, the Protestant revolt, inasmuch as it substituted an infallible State for an infallible Church, was an obstacle rather than a help to civil and religious liberty.

XXII.

A correct interpretation of the Renaissance movement shows that it cannot be considered as a revolt against the Church or its teachings.

XXIII.

The widespread influence of some of the heretical mystics of the two centuries preceding Luther was a result as well as an evidence of the decline of Scholasticism.

XXIV.

The Bull *Apostolici Regimimis* which was published by Leo X at the Fifth Lateran Council (1512-1517), is a warning against the pagan spirit which grew out of the Renaissance Movement.

XXV.

From a political standpoint the first fruits of the Lutheran revolt were an increase of absolutism in government among European nations.

XXVI.

The anti-Catholic legislation in the United States during the Pre-Revolutionary period may be traced to

the "No-Popery" spirit that had been prevalent in Great Britain since the religious cleavage of the sixteenth century.

XXVII.

To the nomadic tendencies of the North American Indian as well as to the selfish interference of the French government may be attributed the failure of the Jesuit missioners to establish the so-called *Reductions* on a permanent basis among the tribes of Northern New York and Lower Canada.

XXVIII.

Even though it might be maintained that Thomas Jefferson did not have direct recourse to the works of Cardinal Bellarmine, it is nevertheless certain that the political writings of the latter were a considerable factor in the *Virginia Bill of Rights* and ultimately in the *Declaration of Independence.*

XXIX.

The failure of the Colonies to secure an alliance with Canada at the time of the American Revolution was due in a large measure to the hostile attitude which the Continental Congress, at its first meeting, assumed toward the Quebec Act.

XXX.

The failure of the Catholics of the United States to take a more active interest in the work of the Foreign Missions during the last century was due not so much to neglect, as to a lack of knowledge of the work and a realization of their special duty in that regard.

XXXI.

The Kingdom of God which is spoken of in the New Testament is not to be limited to an escatological sense.

XXXII.

The texts of Matthew v, 31-32, xix, 4-9; Mark x, 3-12, and Luke xvi, 18, cannot be interpreted as favoring divorce *quoad vinculum.*

XXXIII.

The declaration of St. Peter at Caesarea-Philipi was a profession of the Divinity of Christ.

XXXIV.

A suffering Messias was foretold in Isaias LIII.

XXXV.

The prophecy of Jacob concerning the passing of the sceptre from Juda cannot be said to have been fulfilled in the Babylonian captivity.

XXXVI.

Revelatio divina ita aetate apostolica completa est, ut neque nova oeconomia expectanda sit neque in praesenti oeconomia novae fiant publicae revelationes.

XXXVII.

Progressus dogmatum non in eo consistit ut eis sensus tribuendus sit alius ab eo quem intellexit Ecclesia, sed in eo quod uberior et clarior praebeatur eorundem explicatio.

XXXVIII.

Constat nullam fuisse in Christo homine ignorantiam, sed animam Christi inter homines degentis omnia praeterita, praesentia, et futura cognovisse, ne excepto quidem judicii die.

XXXIX.

Incarnatio est a Deo ad humani generis reparationem ita ordinata, ut, homine non peccante, Verbum Dei non fuisset incarnatum.

XL.

In Mediatore, qui pro nobis condignam satisfactionem Deo offert, requiritur natura humana simul cum divina natura.

XLI.

Fideles laici aut sacerdotes non consecrantes, nullo praecepto divino tenentur communicando sumere utramque speciem.

XLII.

In Eucharistia non remanet substantia panis et vini, sed vi verborum consecrationis fit vera transubstantiatio in substantiam Corporis et Sanguinis Christi.

XLIII.

Sacramentum Poenitentiae in re, vel in voto, saltem implicite lapsis post Baptismum est necessarium necessitate medii.

XLIV.

Ecclesiae eique soli a Deo commissa est potestas statuere quae ad validitatem et liceitatem Sacramenti Matrimonii requiruntur.

XLV.

Natura hominis necessario exigit ut sacramenta in rebus sensibilibus instituantur.

XLVI.

Defraudare justa tributa, etsi non petantur, est ex genere suo peccatum mortale contra justitiam, et non tantum legalem sed etiam commutativam.

XLVII.

Tria vota paupertatis, continentiae, et obedientiae sunt essentialia statui religioso.

XLVIII.

Quaecunque sit regiminis politici forma, suprema quaedam auctoritas quae ordinem foveat necessaria est.

XLIX.

Licitum est bellum defensivum sed tantum ut medium ultimum jura magni momenti vindicandi.

L.

Infideles qui nunquam susceperunt fidem, nullatenus sunt cogendi ad fidem; possunt tamen cogi ut non impediant fidem.

LI.

Ecclesia est societas completa ac proinde a societate civili independens.

LII.

Christus proprie Ecclesiam instituit, dum solis Apostolis et successoribus eorum potestatem docendi, santificandi, atque regendi promittit et confert.

LIII.

Romanus Pontifex suprema et plena potestate jurisdictionis pollet in Ecclesia universali, etiam in rebus disciplinaribus et quidem ordinaria et immediata.

LIV.

Concilia Oecumenica non sunt absolute necessaria.

LV.

Religio Christiana neque a Judaicis Doctoribus neque a Paganis Philosophis mutata fuit.

LVI.

De Natura et Objecto Legis Ecclesiasticae, canones 8-16.

LVII.

De Consuetudine, canones 25-30.

LVIII.

De Jurisdictione, canones 201-202.

LIX.

De Episcopis, canones 329-347.

LX.

De Judiciorum Ecclesiasticorum Notione, Objecto et Divisione ratione objecti, canones 1552-1555.

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VITA.

The writer of this dissertation, George Cornelius Powers, was born in Boston, Mass., February 24, 1895. He received his elementary education at St. Patrick's School of Lynn, Mass., and his classical education at the Maryknoll Preparatory College, Clark's Summit, Pa. He pursued his Philosophical and Theological courses at the Catholic Foreign Mission Seminary of America, Maryknoll, N. Y. In the fall of 1923 he matriculated at the Catholic University of America. Here he followed courses in Church History under Doctors Healy and Guilday, Apologetics under the late Doctor Charles F. Aiken, New Testament Exegesis under Doctor Heinrich Schumacher, and Education under Doctor Edward B. Jordan. He also attended the seminar in Classical Scholarship under Doctor Roy J. Deferrari. At Maryknoll on June 15, 1924, he was raised to the Holy Priesthood by the Right Reverend John J. Dunn. He received the degree of Bachelor of Sacred Theology in June, 1924, and that of Master of Arts and the Licentiate in Sacred Theology in the following year. Since that time the writer has been engaged in teaching at the Maryknoll Preparatory College where he completed the writing of this dissertation.

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